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Abstract of the proceedings of the Council of the Governor general of India ... Laws and Regulation, 1809

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TO

ABSTRACT OF PROCEEDINGS

OF

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ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

VOLUME XXXVIII.

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Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 13th January, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.
His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble Mr. M. D. Chalmers, C.S.I.
The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.
The Hon'ble Sir A. C. Trevor, K.C.S.I.
The Hon'ble Mr. C. M. Rivaz, C.S.I.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Mr. J. J. D. LaTouche, C.S.I.
The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.
The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.
The Hon'ble Mr. Allan Arthur.
The Hon'ble Mr. P. M. Mehta, C.I.E.
The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.
The Hon'ble Mr. J. K. Spence, C.S.I.
The Hon'ble Mr. G. Toynbee.
The Hon'ble Mr. D. M. Smeaton, C.S.I.
The Hon'ble Mr. J. D. Rees, C.I.E.

NEW MEMBERS.

The Hon'ble MR. MEHTA, the Hon'ble NAWAB MUHAMMAD FAIVAZ ALI KHAN, the Hon'ble MR. SPENCE, the Hon'ble MR. TOYNBEE, the Hon'ble MR. SMEATON and the Hon'ble MR. REES took their seats as Additional Members of Council.

In opening the proceedings of the Council His Excellency THE PRESIDENT said :—

"Your Honour and Gentlemen,—In taking my seat for the first time at this table, I should like to say, before we advance to the proceedings of the morning, what an honour I conceive it to be to preside over this distinguished and representative body, which is entrusted with the legislative work of the Government of India. I think I may claim a peculiar interest in the work of this Council for the reason that I happened to be the Minister, as Under-Secretary of State for India, who, in 1892, under the Secretaryship of State of Lord Cross, had to conduct through the House of Commons the Indian Councils Bill of that year. To that Bill we owe the enlarged constitution, and, as I believe, the extended usefulness, of this Council and of the kindred, though smaller, bodies in the other parts of India; and it is therefore with exceptional pleasure that I find myself presiding here over a body which I assisted to launch into the later stage of its existence, and in which I feel myself entitled, therefore, to entertain a more than official concern. I hope, Gentlemen, that our deliberations may be characterised by the dignity which has always attended the proceedings of this Council, and that they may redound to the advantage of this country and of its peoples. For my own part I doubt not that I shall receive at your hands, as my predecessors have always done, the help which your greatly superior experience in Indian matters must put you in a position to afford."

ACCOUNTS FOR 1897-98.

The Hon'ble SIR JAMES WESTLAND said :—"I have, with Your Excellency's permission, to intimate to Hon'ble Members of Council that the accounts for the year 1897-98 have been finally closed, and that they will be distributed in a few days by the Secretary to Hon'ble Members. As regards the issue of the accounts, I may mention that it turns out that in making the Financial Statement last March we over-estimated the revenue of the year by twelve lakhs and the expenditure by four lakhs. The consequence is that the deficit of the year, instead of being, as we then estimated, 528 lakhs, turns out to be 536 lakhs. As the figures which we deal with include about nine or ten thousand lakhs on each side of the account, I think it will be admitted that that is extremely close estimating. Hon'ble Members may also recall to mind that with the last Financial Statement I gave a summary in short form of the accounts for twenty years. That summary, together with its subsidiary accounts, is also now in the hands of the printer, and will, during the week, I trust, be distributed also to Hon'ble Members."

[*Mr. Rivaz; Mr. Chalmers.*] [13TH JANUARY, 1899.]

GOVERNMENT BUILDINGS BILL.

The Hon'ble MR. RIVAZ moved that the Bill to provide for the exemption from the operation of Municipal laws of certain buildings and lands which are the property, or in the occupation, of Government and situate within the limits of a municipality, be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Rai Bahadur Ananda Charlu, the Hon'ble Mr. LaTouche, the Hon'ble Nawab Faiyaz Ali Khan and the mover. He said:—"This Bill was introduced in the Council and circulated in the usual way for opinions. Those opinions have been received and the Bill is now ready for consideration by a Select Committee."

The motion was put and agreed to.

COURT-FEES ACT (1870) AMENDMENT BILL.

The Hon'ble MR. RIVAZ moved that the Hon'ble Mr. Mehta, the Hon'ble Mr. Smeaton, the Hon'ble Mr. Rees and himself be added to the Select Committee on the Bill to further amend the Court-fees Act, 1870. He said:—"The Select Committee, which was appointed last year to consider the Bill to further amend the Court-fees Act of 1870, was unable to deal with it during the past Calcutta session owing to more urgent and important work. Meanwhile four Members of that Committee have ceased to be Members of Your Excellency's Council, and it is necessary, therefore, to fill up the vacancies. My own name is included as I have since succeeded to the charge of the Bill."

The motion was put and agreed to.

PRESIDENCY SMALL CAUSE COURTS ACT (1882) AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Bill to further amend the Presidency Small Cause Courts Act, 1882, be referred to a Select Committee consisting of the Hon'ble Mr. Rivaz, the Hon'ble Mr. Allan Arthur, the Hon'ble Mr. Mehta, the Hon'ble Mr. Rees and the mover. He said:—"This is a Bill which was introduced last year and which we had not time to refer to a Select Committee. It has been before the Council, and I need not say at present anything further on the subject of it."

The motion was put and agreed to.

[*Sir James Westland; Major-General Sir Edwin Collen.*] [13TH JANUARY, 1899.]

INLAND STEAM-VESSELS ACT (1884) AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Bill to further amend the Inland Steam-vessels Act, 1884, be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Mr. Allan Arthur, the Hon'ble Mr. Smeaton and the mover. He said :—"This is a Bill which was introduced for the purpose of giving the Government powers to regulate the traffic of inland steam-vessels in some small particulars in which the present law does not give them sufficient power. It has for the most part been agreed to, and I think I may describe it as a non-contentious measure. I ought, however, to mention that it is the intention of the Government to move in Select Committee the addition of a new section to the Bill which will have the effect of declaring that certificates which are issued by one Local Government to engineers and officers of steamers shall have effect throughout India, that is to say, that a declaration of competency on the part of one Local Government shall be effective throughout India."

The motion was put and agreed to.

INDIAN MARINE ACT (1887) AMENDMENT BILL.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill to amend the Indian Marine Act, 1887, be taken into consideration. He said :—"When I introduced this Bill on the 23rd of September last, I explained that the alterations proposed were merely to give effect to certain administrative and other changes which had occurred since the passing of the Marine Act of 1887. The Bill has been circulated to Local Governments and Administrations and other authorities, and no objection has been taken to its provisions."

The motion was put and agreed to.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill be passed.

The motion was put and agreed to.

The Council adjourned to Friday, the 20th January, 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 13th January, 1899.

Government of India Central Printing Office.—No. 328 L. D. 20-1-99.—320.—E H

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 20th January, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

INDIAN STAMP BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Stamps be taken into consideration. He said:—"My Lord, Hon'ble Members will perhaps remember that on the 21st of March last I presented the Report of the Select Committee upon the Indian Stamp Bill, a consolidation of the law as it at present stands. I explained at that time the alterations which had been made

by the Select Committee in the Bill as it was originally introduced, and it would perhaps be convenient to Hon'ble Members if I read the last paragraph of the statement I then made, as that paragraph will show the history of the Bill to the point at which we now take it up. This is what I then said:—

'There have been considerable modifications in these points of detail, which have been made in it as reported by the Select Committee. The Select Committee considered that in a matter so far-reaching, one in which people are so very largely concerned, it is not desirable that the law should be passed without giving some opportunity for further consideration. They have, therefore, in their report recommended that the measure has been so altered as to require republication, and they recommend that it should be republished in the Gazette of India. The date from which the Act will come into force, as shown in the Bill reported by the Select Committee, is the 1st of July next. I am afraid that it will not be possible to bring it into force by that date, because, even if the measure be passed at Simla, we shall have to put off the date of its coming into force for a sufficient time to enable the Local Governments to publish it and translate it into the various vernacular languages; but I think the Bill as it has been reported by the Select Committee may be considered to a very large extent a non-contentious measure, and it may possibly be open to the Council, even during the Simla session, to consider it and to pass it. That, however, is a matter we shall hereafter consider when we see what remarks are made with reference to it as now reported; but, inasmuch as we have met all the objections which were raised to it as first introduced, I think it may be possible, even though it is a commercial measure, to proceed with its consideration during the Simla session.'

"The measure was not taken up in the Simla session, and it now comes before the Council again at the point at which the Council left it on the 21st of March last. I therefore beg to move the motion that stands in my name. I have some amendments to propose, and I shall deal with these after the motion that the Report be taken into consideration is passed."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND said:—"I have some amendments to propose in the Bill as it at present stands. We have received only two communications regarding it, both of them coming from Madras. These communications refer to certain points of doubt which have arisen in the interpretation of the Bill. I think some of them are rather strained, but, as we desire to make the Bill perfectly clear on the points noted, the several amendments I propose are set before the Council with that object. They are all of one tendency, namely, to make it clear that in certain cases, where a doubt has been expressed as to whether an instrument of a certain character comes within a higher or a lower duty, it really comes within the lower duty. It will probably be convenient to

the Council if I go through these amendments all together instead of explaining them one by one before they are taken up.

"The first is an amendment for altering the date at which the Bill comes into operation—from the 1st of July, 1898, to the 1st of July, 1899. The Bill itself provides that the Local Governments shall make translations of it for the convenience of the various Provinces and of their inhabitants. It therefore requires a certain time to elapse between the time the Bill passes and the time it comes into operation. We think it will be convenient and easy to have all these measures carried out before the 1st of July next, and we therefore take the 1st of July, 1899, as the date upon which the Bill will come into operation.

"The second amendment relates to the use of the word 'engrossed' as applied to stamps. In the Bill as reported on it was stated that an impressed stamp 'includes stamps engrossed on stamped paper.' The word 'engrossed' has a technical meaning among lawyers and represents a peculiar method of writing that does not apply to stamps. Stamps are generally engraved and occasionally embossed. It is proposed, therefore, to substitute for the words 'stamps engrossed on stamped paper' the words 'stamps embossed or engrossed on stamped paper.'

"The third amendment has reference to the definition of the word 'settlement.' There are two scales of duty which are provided for by the Act. One is a scale which refers to transfers, such as gifts or conveyances, and may be described as a one per cent. scale; the other is a scale which represents such documents as bonds and security bonds, and that is a half per cent. scale. The article in the schedule of stamps provides that to settlements shall be applied this lower scale of half per cent. A settlement is a kind of transfer, and any document which does not come within the definition of 'settlement,' being a conveyance or a gift of some kind, will necessarily have applied to it the one per cent. and not the half per cent. scale. So that, if our definition of the word 'settlement' is so set out that any particular document is excluded thereby from it, it will necessarily have to be stamped with the one per cent duty instead of the half per cent. Now in the Madras Presidency it has been ruled that the use of the word 'distribution' in the definition of 'settlement' indicates that a settlement must necessarily be in favour of more than one person. It has consequently been ruled in that Presidency that if a settlement is made in favour of one person it is not a settlement within the meaning of the Act and must bear a one per cent. duty instead of the half per cent. which is levied for a

settlement in the schedule. We propose to alter the definition of the word 'settlement' so as to prevent the exclusion from it of what is not an infrequent document—a settlement in favour of a single person. We have added, therefore, to the original definition of the word 'settlement' as it is taken from the old Act the following words—'or for the purpose of providing for some person dependent on him.' A 'person' of course includes also persons, and the consequence is that a settlement is made to include not only a document which has for its object the distribution of the property of the settlor, but of providing, whether by distribution or otherwise, for some person dependent on him.

"The fourth amendment refers to the stamp which is required on a certificate of sale given by a Civil or Revenue Court or Collector or other Revenue-officer. A single property is at such a sale sometimes put up in separate lots. The consequence is that the words inserted by the Select Committee for the purpose of defining the stamp-duty required, namely, the words 'in respect of each property sold,' are not quite clear. What the Select Committee intended was that they should regard each property separately put up as a subject for duty, and that the duty required should be levied in respect of each property put up as a separate lot and sold. The insertion of these words will make the definition intended by the Select Committee clearer.

"The fifth amendment refers to the duty required upon a gift. At present 'gift' comes under the one per cent. scale of duty, the same duty as is required in respect of a conveyance, but in order to prevent so high a duty being levied on a certain class of transactions which is liable to very frequent transfer, such, for example, as shares in a public company, or debentures issued by a public company, the words were inserted, a gift 'not being a settlement' (which comes under the half per cent. duty) 'or a will' (upon which no duty at all is required) 'or a transfer of shares' (upon which a smaller duty is required), but, if reference be made to the article referring to the duty which is levied upon transfers, it will be seen that there are other things besides transfers of shares which are entitled to this smaller rate of duty. We therefore, in order to prevent the application of the duty required upon a gift to the case of those other transactions, cut out the words 'of shares', and merely say the higher duty is required upon an instrument of gift not being a settlement or gift or transfer, without limiting this last expression to transfer of shares.

"The sixth amendment practically refers to the definition which we have given of an instrument of partition. It is stated that an instrument of partition includes an award or an order of a Court directing a partition. The object of

this inclusion in the term 'instrument of partition on an award' was that it was found that as a matter of fact co-sharers proceeding to a partition of their property, instead of drawing up a partition deed and having it duly stamped, agreed to an award of partition being made, and the award of partition was stamped with the small stamp required for an award and not with that required for an instrument of partition. But it is very clear that if persons have an award of partition made and afterwards have an instrument of partition drawn up to carry out this award, they ought not to be made to pay duty twice over. There are similar provisions in the case of leases. A lease is defined to include an agreement to lease, but it is carefully provided that if the persons who execute an agreement to lease and put upon it the stamp-duty which is required for a lease, afterwards carry out the formal documents which complete that lease, they shall not pay the duty twice over, but shall pay upon the second instrument a mere duty of eight annas. We have applied this same kind of proviso to the case in which an award or decree of partition having been first properly stamped, afterwards an instrument of partition is drawn up in order to carry out the partition.

"The seventh amendment refers to the definition of powers-of-attorney. A specially small duty is levied upon powers-of-attorney which are executed for the sole purpose of effecting registration. The Registration Act provides that persons who proceed to the registering officer for the purpose of registration may under the cognizance of the registering officer effect certain other operations at the same time. They may, for example, pass the consideration money and have the fact attested by the registering officer. There is also a provision in the Registration Act which provides for the delivery of the documents to the registering person or to any other person to whom it has to be delivered in the presence of the registering officer. Now, if a person is authorised by a power-of-attorney to carry out the whole of these operations, it is a little doubtful whether the instrument which is so drawn up comes within the definition of a power-of-attorney 'executed for the *sole* purpose of procuring registration of one or more documents in relation to a single transaction.' We therefore propose in order to remove these doubts to indicate that the document bearing this smaller stamp may cover the whole of the transaction which takes place before the registering officer, by saying that the word 'registration' shall include every operation incidental to registration under the Indian Registration Act.

"The eighth amendment is a little more than a typographical correction. A reference was made to article 13 (*b*), whereas, as a matter of fact, the reference ought to be made to the whole of the article 13, and not only to a portion of it.

"The ninth amendment refers to the duty upon a proxy. A proxy is, of course, a power-of-attorney, and, unless we had a particular provision relating to it, it would have to be stamped as a power-of-attorney, but in order to provide for documents so frequently used for what may be called a mere incidental purpose, we have prescribed certain cases where a proxy may be used instead of a power-of-attorney and on which is paid a stamp-duty of one anna instead of eight annas or a rupee, which would be required if it was called a power-of-attorney. One of these cases is a proxy empowering any person to vote at any one meeting of a local authority, such as for example a district board or a municipal board. Now by an order which has been notified under the Stamp Act, it has been declared that this one-anna duty is sufficient in the case of a proxy which is given, not for empowering any person to vote at a meeting of a local board but empowering him to vote at an election of a local board, carried out under the law of the Local Government concerned. These elections do not involve meetings at all or they may not do so, and, if the article of the present Stamp Act, which in that respect is the same as the provision of the Bill, stood alone, a proxy given for that purpose would require an eight-anna stamp. We have, therefore, modified article 52 so as to show that a proxy bearing a one-anna stamp is sufficient not only for empowering any person to vote at a meeting, but also empowering any person to vote at an election. I may mention that the law as it at present stands applies this duty only to the case of a proxy given by a female. There is no particular reason why it should be limited to females, and there is no reason why we should levy a higher duty upon proxies given by males than those given by females.

"As to the tenth amendment the remarks which I made with reference to an instrument of partition apply. A proviso is to be added in exactly the same sense and which runs as follows :—

"Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.

"Its object is to prevent a double levy of duty upon what is practically a single transaction.

"The eleventh amendment is complementary to the fifth amendment, and it explains that the smaller duty levied upon a transfer of a certain description is equally applicable whether the transfer is made with or without consideration. If it were not for this explanation it might be considered that a transfer without consideration was a gift and had to bear the full one per cent. duty.

"The twelfth amendment refers to the stamp upon a transfer of a lease. The provision as it stands at present is that no duty whatever is required in the case of the transfer of a lease which is exempt from duty. I am advised by the Legislative Department that the meaning of these words would be that the document exempted was a transfer of a lease which is, by the provisions of this law itself, exempt from duty. We wish to extend this a bit, especially as there is a very large class of leases which are exempted from duty by executive notification but are not exempted by the law itself, namely, agricultural leases. We, therefore, omit the words 'which is' and the result of that omission is that the exemption from duty extends not only to transfers of leases which are by law exempt from duty but also to transfers of leases which may by executive notification be exempted from duty.

"These, my Lord, are all the amendments that I have to move, and if Your Excellency will permit me, I propose not to make a formal motion with reference to each of them.

"I may also mention that it is intended that the Bill should be brought up to be passed at the next meeting of the Council."

The following amendments were then put separately to the Council by His Excellency THE PRESIDENT and agreed to :—

(1) That in clause 1, for the figures "1898", in both places, the figures "1899" be substituted.

(2) That in clause 2, sub-clause (13) (*b*), for the word "engrossed" the words "embossed or engraved" be substituted.

(3) That to clause 2, sub-clause (24) (*b*), the words "for the purpose of providing for some person dependent on him, or" be added.

(4) That in Article No. 18 of Schedule I, after the words "each property", the words "put up as a separate lot and" be inserted.

(5) That in Article No. 33 of Schedule I, for the words "SETTLEMENT or WILL or TRANSFER of shares" the following be substituted, namely :—

"SETTLEMENT (No. 58), or WILL or TRANSFER (No. 62)."

(6) That in Article No. 45 of Schedule I, after Proviso (*b*) the following be added, namely :—

"(*c*) where a final order for effecting a partition passed by any Revenue-authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas"

(7) That in Article No 48 of Schedule I, after the words one rupee for each person authorized" the following be added, namely —

'*N B*—The term "registration includes every operation incidental to registration under the Indian Registration Act, 1877'

(8) That in Article No 49 of Schedule I, for the parenthesis "[No 13 (*b*)]" the parenthesis "(No 13) be substituted

(9) That in Article No 52 of Schedule I, after the word "vote" the words "at any one election of the members of a District or Local Board or of a body of Municipal Commissioners, or" be inserted.

(10) That in Article No. 58 of Schedule I, after the words "set forth in such Settlement" the following be added, namely —

"Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas

(11) That in Article No 62 of Schedule I, after the word 'TRANSFER" the parenthesis "(whether with or without consideration)" be inserted

(12) That in Article No 63 of Schedule I, in the *Exemption*, the words "which is" be omitted

PRESIDENCY SMALL CAUSE COURTS ACT (1882) AMENDMENT BILL

The Hon'ble MR CHALMERS presented the Report of the Select Committee on the Bill to further amend the Presidency Small Cause Courts Act, 1882 He mentioned that he would move at the next meeting of the Council that the Bill be passed

INDIAN CONTRACT ACT (1872) AMENDMENT BILL

The Hon'ble MR CHALMERS said —'With Your Excellency's permission I desire to say a few words before I move that the Indian Contract Act Amendment Bill should be referred to a Select Committee. That Bill was introduced by my Hon'ble friend the Lieutenant-Governor of Bengal in March last year, and in introducing it he explained the circumstances which led to its origin. Owing to his elevation to his present high office, an elevation on which I am

sure we may congratulate him and his province, he can no longer take charge of the Bill in Committee, and it falls to my lot to take his place. During the past year we have received many criticisms on the Bill—many of them exceedingly useful criticisms. This, of course, is not the time to deal with those criticisms or to reply to them, but I think I may say that, while they suggest valuable amendments in points of detail, the weight of opinion is very decidedly in favour of the principle of the Bill, and it is only on the general principle of the Bill that I propose to offer any remarks to-day.

"As Hon'ble Members are aware, the subject of agricultural indebtedness and of money-lenders and their dealings with the poorer and more ignorant classes has long been engaging the attention of the Government. Opinions may differ—and may fairly differ—as to the nature of the remedies which we ought to adopt to meet an admitted evil, but an evil the magnitude of which undoubtedly differs very considerably in different parts of India. We have been urged to put stern restrictions on the alienation of land and to apply universally the provisions of the Dekkhan Agriculturists' Relief Act. But the conditions of land-tenure and of the land-holding classes are so widely divergent in the different provinces of this great Empire that legislation which would be suitable and beneficial in one province would be unsuitable and prejudicial in another. Then we have been urged to extend to all classes the custom of *damdupat*, according to which interest on a loan can never exceed the principal. We have been urged to re-enact the Usury Laws, and we have been urged to give the Courts a discretion in all cases over the amount of interest to be recovered in judicial proceedings. After careful consideration we have rejected these suggestions. We have no wish to interfere with freedom of contract where the parties to a contract are really free and contract with each other on a footing of equality. We think that under those circumstances the parties can make their own contracts and arrangements much better than we can make them for them. How then does the case stand? On the one hand, the existing law sufficiently provides for the case of fraud; under the law as it stands a contract induced by fraud may be avoided at the instance of the party defrauded. On the other, we do not wish to interfere with the discretion of the parties where they are in a position to give a free and intelligent consent to the terms of their contract. If a man makes a bad bargain he must stick to it, and learn wisdom for the future. But then there is an intermediate class of cases for which we think the law ought to make further provision. There may be no fraud, but the relations between the parties to a contract may be such as that one of them is practically in the power of the other, and that power may

be used to extort unfair terms. In that case there is no real freedom of contract. There is consent, it is true, but it is consent obtained by unfair pressure. To some extent this intermediate case is provided for by the existing law. Section 16 of the Contract Act of 1872 provides for the avoidance of contracts in certain specified cases where undue influence has been used. But the framers of that Act did not see fit to embody in the Act the general principle which underlies the particular cases which they specified. That Act has now been in force for more than a quarter of a century, and it has been found wanting. Experience has shown that the existing provisions have failed to meet the evils with which we are now confronted. We must therefore enlarge the powers of the Courts; and we propose now to enact the underlying principle, and to provide that, where the relations between the parties to a contract are such that one of the parties is in a position to dominate the other, and he uses his dominant position to impose unfair terms on the other, then the Court is to be empowered to open up the whole transaction, and either set it aside, or, if the parties cannot be restored to their original position, to see that right and justice is done. Of course the Court will have to be satisfied that such relations do subsist between the parties as to enable one of them to dominate the will and consent of the other; but when this is shown, we think that the Court ought to have a free hand to go behind the terms of the contract and to see whether the transaction is fair and reasonable or not.

"Now I wish to point out that in arming the Courts with these powers we are not really making a new departure. The principle we propose to enact is a familiar one in English Courts of Equity. I will not inflict upon Hon'ble Members a disquisition on English law, but with Your Excellency's permission I will cite a short extract from a well known and authoritative English text-book which I think accurately sums up the English law on the subject. I refer to the last edition of Leake on Contracts. Discussing the doctrine of undue influence, the learned author says (edition 3, page 554, citing the words of Lord Selborne's judgment) :—

'Agreements between persons in certain relative positions are treated in equity as presumptively made under an undue influence of one party upon the will of the other; and when the relative position of the parties is such as *primâ facie* to raise this presumption the transaction cannot stand, unless the person claiming the benefit of it is able to repel the presumption by contrary evidence proving it to have been in point of fact fair, just and reasonable.'

"Then after discussing various heads of undue influence such as contracts with reversioners, agreements between guardian and ward, solicitor and client and

so on, the learned author sums up the English doctrine by saying that 'the same general principle applies to all the variety of relations in which dominion may be exercised by one person over another, as in the case of dealing with a person who is illiterate and ignorant of business and who has no independent adviser, or with a person who is under such pecuniary necessity as not to be a free agent.' I think this quotation is sufficient to show that we are not embarking on an unknown sea. We are merely investing our Courts with equitable powers which have long been possessed by English Courts. In the exercise of those powers our Courts will have the benefit of English decisions, not, of course, as binding on them, but as useful lights to mark out the way.

"I think, too, that this Bill may fairly be regarded as restoring to our Courts an ancient jurisdiction rather than as creating a wholly new one. At present the Courts are bound by the somewhat too narrow provisions of section 16 of the Indian Contract Act. Before that Act they had a freer hand. The time-honoured direction to Indian Courts, embodied in many Acts, was that, in all matters not provided for by positive enactment, they were to act 'according to justice, equity and good conscience.' We all know the practical effect of that direction. The Courts administered English law, free of course from any peculiarities or technicalities of local origin. Apart from the restrictions imposed by the Contract Act, our Courts would have been at liberty to apply and develope the English doctrine of undue influence, and this liberty under certain limitations we propose to restore to them.

"There is one other matter I wish to refer to. Hon'ble Members are doubtless aware that during the past year the subject of money-lenders and money-lending contracts has been exhaustively investigated by a strong Select Committee of the House of Commons. The Committee have reported unanimously, and have made various recommendations for strengthening the law. Many of their suggestions would be inapplicable to India and the conditions of Indian life. But I should like to quote their first and main recommendation and to say a few words about it. The Committee report as follows :—

'17. After carefully considering the whole of the evidence and opinions, your Committee have arrived at the conclusion that the only effective remedy for the evils attendant upon the system of money-lending by professional money-lenders is to give the Courts absolute and unfettered discretion in dealing with these transactions.

'18. They therefore recommend that all transactions, by whatever name they may be called, or whatever their form may be, which are in substance transactions with persons carrying on the business of a money-lender, in the course of such business should be open to complete judicial review.

19. That in all legal proceedings to enforce, or for any relief in respect of a claim arising out of, such transactions, the Court should have power to inquire into all the circumstances of such transactions from the first transaction up to the time of the judicial inquiry.

'20. That in such proceedings the Court should have power to re-open any account stated in the course of such transactions, to direct that an account be taken upon the basis of allowance of such a rate of interest as shall appear to be reasonable, having regard to all the circumstances, and to make such order as the Court may think fit.

* * * * * * * *

'22. That a borrower from a money-lender should be enabled, notwithstanding any provision or agreement to the contrary, to apply to the Court at any time to redeem any security, or for relief on the part of himself and any other person who acts as surety, or otherwise, upon payment of the principal sum advanced and such interest as the Court may consider reasonable.

'23. That the discretion suggested should be exercisable by any Judge of the High Court or any Judge of a County Court.

'24. That from any decision given under these powers by the judicial authority, there should be no right of appeal by either party except by leave of the Court.

'25. That no transaction between a judgment-debtor and a judgment-creditor by way of a renewal of the loan should be valid so long as the judgment remains unsatisfied.'

"If Hon'ble Members will compare the recommendations of the House of Commons Committee with our present proposals, they will see that our proposals are considerably less drastic than those of the English Committee. We recognise that as Indian agricultural society is at present constituted, the money-lender is the capitalist, and an essential factor in it. We have no desire to eliminate or unduly harass the people who make loans to the agricultural and poorer classes. It is the abuses and excesses and not the legitimate use of the system which we wish to curb."

The Hon'ble MR. CHALMERS then moved that the Bill to amend the Indian Contract Act, 1872, be referred to a Select Committee consisting of the Hon'ble Mr. Rivaz, the Hon'ble Sir Griffith Evans, the Hon'ble Rai Bahadur Pandit Suraj Kaul, the Hon'ble Mr. Mehta, the Hon'ble Mr. Spence, the Hon'ble Mr. Rees and the mover.

The motion was put and agreed to.

INDIAN PETROLEUM BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances. He said:—"The main object of the Bill which I ask leave to introduce is to enable the Petroleum Act, which at present deals only with petroleum and its liquid compounds, to be applied to other illuminant or inflammatory substances, as for instance carbide of calcium, which, being a solid, is not covered by the present Act, whenever it may be found desirable in the public interest to regulate and control the use of any such substance in this country. It is proposed to provide at the same time for the laying down of special tests in the case of substances for which the tests prescribed in the schedule to the present Act are unsuitable; also, to enable the transport of petroleum to be exempted by notification in special cases and under special conditions from the restrictions at present prescribed for its possession and transport. The other alterations embodied in the Bill are of a formal character.

"The present opportunity has been taken to make the Bill which is now being introduced a consolidating as well as an amending enactment, by repealing and reproducing three entire Acts and portions of two other Acts which deal with the subject under consideration."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 27th January, 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 20th January, 1899.

Government of India Central Printing Office.—No. 373 L. D.—30-1-99.—320.—E. H.

[illegible]

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 27th January, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

GOVERNMENT BUILDINGS BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill to provide for the exemption from the operation of Municipal laws of certain buildings and lands which are the property, or in the occupation, of Government and situate within the limits of a municipality. He said he would reserve any remarks he had to make till the next meeting of the Council, when

he proposed to move that the Select Committee's report be taken into consideration and that the Bill be passed.

INDIAN STAMP BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Bill to consolidate and amend the law relating to Stamps, as amended, be passed.

The Hon'ble PANDIT SURAJ KAUL said :—" My Lord, the Bill now before Your Excellency's Council has been framed by the Hon'ble Member in charge of it after a good deal of careful investigation and consideration, and has, even after the presentation of the Report of the Select Committee, been further considered by him. The few amendments made by the Hon'ble Member in the Bill as altered by the Select Committee and carried by Your Excellency's Council are useful and are calculated to make the reading and application of the sections concerned clearer.

" The Bill, my Lord, is of great importance, and, detailed, lucid and comprehensive as it now stands, it will affect beneficially the interests of both the Government and the public.

" With these few words, my Lord, I beg to support the motion that the Bill as now amended be passed."

The motion was put and agreed to.

PRESIDENCY SMALL CAUSE COURTS ACT (1882) AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Report of the Select Committee on the Bill to further amend the Presidency Small Cause Courts Act, 1882, be taken into consideration. He said that he had one or two brief remarks to make, but that he would make them on the next motion which stood in his name. He would, however, rather have any remarks Hon'ble Members might have to make at this stage.

The motion was put and agreed to.

The Hon'ble MR. CHALMERS moved that the Bill, as amended, be passed. He said :—" In making this motion I desire to make one or two remarks about the Bill. The Bill, as Hon'ble Members are aware, is directed to two objects. In the first place, it gives the Local Government power to appoint, when necessary, a Chief Judge from outside the Court. The Select Committee had before them a

suggestion that this should not be done when there was any Judge of the Court legally qualified to act. The Select Committee considered that recommendation, but they could not accede to it. They say in their Report, and I fully agree with it:

'As a general rule, no doubt, a Judge already in the Court, if legally qualified, would be the proper person to officiate for the Chief Judge during the latter's absence; but we feel that occasions might arise where the only Judge legally qualified to fill the place of Chief Judge might be a person whom it would be undesirable to appoint over the heads of his seniors on the Bench, and we have, therefore, made no change in clause 3.'

"I may say that the difficulty which the Select Committee refer to is a difficulty which in the case of one Court has already arisen in practice. As Hon'ble Members are aware, the Judges of the Small Cause Court are graded, and it would be clearly inexpedient that a junior Judge, who might have the legal qualification for that position, should be put over the heads of the other Judges to act when the Chief Judge was absent. We might have a junior Judge who was qualified to act but who had not been appointed more than a week. If there is a Judge qualified to act, clearly he is the proper person, and nobody wishes to go outside the Court if, taking all qualifications into consideration, there is a Judge who is qualified to act as Chief Judge.

"The other object of the Bill was to validate certain rules which had been drawn up for the Calcutta Small Cause Court by a Committee of the High Court Judges. That Committee was presided over by Mr. Justice Sale. The rules they framed are designed to accelerate and to make more efficient the proceedings in the Small Cause Court, and I think they are well adapted to effect those objects. They do not go quite so far as I should like myself. They do not make the procedure of the Small Cause Courts anything like so quick, or perhaps I might say so efficient, as the procedure of the County Court at home, but still they do effect a very great improvement in the practice, and they go as far as the Committee of Judges thought it was safe to go in the first instance at any rate. I think I may express our thanks to Mr. Justice Sale for the great care and skill with which he has drafted these rules—rules which undoubtedly will benefit the practice of the Court and make it more efficient. The actual point on which the learned Judges of the High Court suggested legislation was this: in order to facilitate proceedings in the Small Cause Court they suggested that undefended cases and certain formal applications should be disposed of by the Registrar or Deputy Registrar, but they doubted whether under the existing rule-making power rules could empower the Registrar or Deputy Registrar to do this. We have now

made the necessary amendment in the Act to make the rule-making power sufficient to cover the cases which I have alluded to."

The Hon'ble MR REES said —" I have only to add to the special reasons just mentioned by the Hon'ble Member that it seems to me on general grounds also desirable that in such a matter as this the hands of the Local Government should be, as far as possible, unfettered. The Bill produces this effect, as well as those which the Hon ble Member has detailed."

The motion was put and agreed to

ARBITRATION BILL.

The Hon'ble MR CHALMERS moved that the Bill to amend the Law relating to Arbitration be referred to a Select Committee consisting of the Hon'ble Mr Rivaz, the Hon'ble Rai Bahadur Ananda Charlu, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Allan Arthur, the Hon'ble Mr Mehta, the Hon'ble Mr. Spence and the mover. He said that this was a Bill of some little importance and complication, and therefore it had been referred to a large Select Committee in order to have the full strength of the Council represented on it.

The motion was put and agreed to.

INDIAN EVIDENCE ACT (1872) AMENDMENT BILL

The Hon'ble MR CHALMERS moved that the Bill to further amend the Indian Evidence Act, 1872 be referred to a Select Committee consisting of the Hon'ble Mr. Rivaz, the Hon'ble Rai Bahadur Ananda Charlu, the Hon'ble Mr LaTouche, the Hon'ble Rai Bahadur Pandit Suraj Kaul and the mover.

The motion was put and agreed to

PETROLEUM BILL.

The Hon'ble MR. RIVAZ moved that the Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Mr. Chitnavis, the Hon'ble Mr Smeaton, the Hon'ble Mr. Rees and the mover, with instructions to report within one month

The motion was put and agreed to.

The Council adjourned to Friday, the 3rd February, 1899.

H. W. C CARNDUFF,
Offg. Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 27th January, 1899.

Government of India Central Printing Office —No 439 L D —3-2 99 —380 E. H.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 3rd February, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

The Hon'ble Maharaja Rameshwara Singh Bahadur of Darbhanga.

NEW MEMBER.

The Hon'ble MAHARAJA RAMESHWARA SINGH BAHADUR of DARBHANGA took his seat as an Additional Member of Council.

QUESTION AND ANSWER.

The Hon'ble MR. ALLAN ARTHUR asked:—"Are the Government of India aware that the levying of double income-tax, *i.e.*, Indian income-tax and

English income-tax, on incomes derived from many Indian securities is considered a very great hardship by the holders of Indian securities in Great Britain; and in view of the fact that this double charge on incomes derived from India must to some extent militate against the investment of capital in India, thus inflicting an injury on the country at large; and, with a view to encourage the flow of capital to India, a consideration which Lord George Hamilton has stated on several occasions in the House of Commons is of the utmost importance to this country, will the Government of India move the Secretary of State to endeavour to arrange with the Home Government that income-tax shall not be levied on incomes derived from India, upon which Indian income-tax has already been paid?"

The Hon'ble SIR JAMES WESTLAND replied:—"I have no doubt that people who receive in England an income earned under circumstances which bring it within the purview of the Indian Income-tax Act, feel it a hardship that they are also charged with income-tax under the English Act. But I doubt whether the diminution of about three rupees out of every hundred which is thereby effected upon the return on capital invested in India, has much or any effect in diminishing the flow of capital to India.

"I shall cause the Hon'ble Member's question to be communicated to the Secretary of State for India; but I would call his attention to the remarks made by the present Chancellor of the Exchequer, in the House of Commons on the 13th June last (Hansard, VII, 107), when an amendment was moved to the Finance Bill, raising this particular question."

GOVERNMENT BUILDINGS BILL.

The Hon'ble MR. RIVAZ moved that the Report of the Select Committee on the Bill to provide for the exemption from the operation of municipal laws of certain buildings and lands which are the property, or in the occupation, of Government and situate within the limits of a municipality be taken into consideration. He said:—"The object of this Bill is to exempt Government buildings which are situate within municipal limits from the control which the municipal authorities ordinarily exercise over building operations. The Select Committee have made no material alterations in the Bill as introduced, but we have in the first place by a slight amendment of wording made it clear that the exemption claimed by Government is only from building regulations, and that the Bill does not deal in any way with other municipal matters, for instance, with the question of the taxation of Government property in municipalities. We have also confined the operation of the Bill to buildings which are

used or which may be required for the public service or for any public purpose, as there is no need for any interference with the ordinary municipal control in the case of private buildings which may happen to be erected on land belonging to Government. And while maintaining the provision about notice being given to the municipal authorities before any Government building is constructed or materially altered, in order to allow them an opportunity, under certain conditions, of inspecting the building and the plans connected with it, and of submitting any objections or suggestions, we have expressly excluded from the purview of such provision all buildings connected with Imperial defence, or any other Government building, the plan or construction of which ought, in the opinion of Government, to be treated as confidential or secret. Such exclusion is so obviously necessary that the matter requires no explanation or further comment on my part. There are no other points in the Bill which I need notice."

The Hon'ble SIR JAMES WESTLAND said:—"I confess to feeling some regret that the Select Committee have restricted the scope of the Bill in every way in which they practically could do so. There are some other matters which I think might reasonably have been included in this legislation but which partly were not within the intention of the Bill in its original shape and are certainly not within its intention now. The Hon'ble Member has referred, for example, to the question of taxation. The question of taxation, as Hon'ble Members are aware, is regulated by the Act of 1881, and the Hon'ble Member in the Home Department and the Select Committee have, reasonably enough, left that Act to regulate the question of taxation on Government buildings; but still I wish to point out that this question is regulated by some special legislation in England which does not apply to this country. For example, it is specifically laid down in the statute law in England that light-houses shall not be subject to municipal taxation. That is a provision which does not apply to this country, and unless we fall back upon the general principle—the extent of whose operation I am unable to define—the general principle that the Crown and that property of the Crown is not subject to legislation unless expressly included, the result is that a municipality can in this country, to an extent to which it cannot certainly at home, levy rates upon buildings which are in the occupation of Government. The Hon'ble Member has referred to certain considerations in connection with buildings for military and naval defence. I certainly would have liked to have seen some provision made with reference to them. I think it is manifestly unfair and unjust that when the Government, for military reasons, puts down a fort for the defence of a big city, the first operation should

be that the municipality pounce upon that fort and require the Government to pay so much per mensem as municipal rates upon it. However, I am perfectly willing to leave the matter to the regulation of the Act of 1881, and I have not proposed, and certainly do not intend to propose, any amendment in the Bill which I perfectly accept."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ said:—"Before moving that the Bill be passed I have to move three small amendments which are all merely formal ones. The first of such amendments is that in the proviso to clause 3 of the Bill as amended, after the word 're-erection' the word 'construction' be inserted. The word 'construction' is used in the clause itself, and it is obviously required in the proviso and was omitted by mistake."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that from sub-section (*1*) of clause 4 of the Bill as amended, the word "said" be omitted. He explained that the word had slipped in by some mistake and was obviously not wanted.

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that in sub-section (*1*) of clause 4 of the Bill as amended, after the words "construction or", in both places where they occur, the words "material structural" be inserted. He explained that these words had been inserted in the proviso to clause 3 and that they ought also to be in clause 4.

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill, as now amended, be passed.

The motion was put and agreed to.

INDIAN CONTRACT ACT (1872) AMENDMENT BILL.

The Hon'ble MR. CHALMERS presented the Report of the Select Committee on the Bill to amend the Indian Contract Act, 1872.

INDIAN EVIDENCE ACT (1872) AMENDMENT BILL.

The Hon'ble MR. CHALMERS presented the Report of the Select Committee on the Bill to further amend the Indian Evidence Act, 1872.

[3RD FEBRUARY, 1899.] [*Mr. Rivaz; Mr. Chalmers.*]

PETROLEUM BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances. He said that he proposed to allow a fortnight before moving that the Bill be passed.

INDIAN CONTRACT ACT (1872) AMENDMENT BILL.

The Hon'ble MR. CHALMERS:—"It may be convenient to Hon'ble Members if I explain that I propose to take the Indian Contract Bill into consideration this day fortnight."

The Council adjourned to Friday, the 10th February, 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 3rd February, 1899.

Government of India Central Printing Office.—No. 474 L. D.—8-2-99.—320.—E. H.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 10th February, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

The Hon'ble Maharaja Rameshwara Singh Bahadur of Darbhanga.

INLAND STEAM-VESSELS ACT (1884) AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND presented the Report of the Select Committee on the Bill to further amend the Inland Steam-vessels Act, 1884. He said :—" The Select Committee have proposed to amend the Bill in two points, both of which I noticed when I moved the appointment of the Select Committee. The first is the provision of authority to Local Governments to prescribe for the carriage and exhibition of lights by vessels on inland waters on which steam-vessels ply. These vessels are obviously a source of danger if of any size and if

they do not carry proper lights, and it is desirable to give power to compel them to use proper lights. The other point is that the declaration or certificates of competency of service which are given by one Local Government are to be current throughout India even in the case of other Local Governments. It will be observed that this provision is not made with reference to certificates of survey which are given to vessels. The certificates of survey given to vessels have reference to the particular route, or the particular trade in which they are employed, and it would not be advisable to declare, for example, that a vessel which had passed a survey for purpose of traffic in the Irrawaddy should be competent without further special examination to ply, say, on the Brahmaputra."

CURRENCY-NOTES FORGERY BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Bill to amend the law relating to the forgery of currency-notes and bank-notes be referred to a Select Committee consisting of the Hon'ble Mr Chalmers, the Hon'ble Mr. Rivaz, the Hon'ble Mr. LaTouche, the Hon'ble Mr. Mehta and the mover. He said —"This is for the most part a purely legal amendment, that is to say, the existing penal provisions regarding the forging of currency-notes and bank-notes are not sufficient protection to the public. There is a special law in England relating to this class of offence, and we have adopted that law for India, the Bill which is now before the Council being practically based upon the English Statute."

The motion was put and agreed to.

INDIAN EVIDENCE BILL.

The Hon'ble MR. CHALMERS moved that the Report of the Select Committee on the Bill to further amend the Indian Evidence Act, 1872, be taken into consideration. He said.—"In making this motion I need say but very little As Hon'ble Members are aware, the system of authenticating documents and identifying persons by means of what are known as finger-impressions is now acknowledged to be the most trustworthy system we at present possess. Till very recently it was almost impossible to employ the system for identifying persons because of the difficulty of classifying or indexing the impressions for the purpose of reference. This difficulty has now been overcome by the laborious ingenuity of Mr. Henry, the Inspector General of Police in Bengal. The Government therefore now think that the time has come for giving legislative recognition to the new system and they propose to give the Courts the same powers of taking evidence concerning, and of dealing with, finger-impressions, as they have in the case of handwriting."

The Hon'ble MR. TOYNBEE said :—" Your Excellency, I feel some doubt as to whether the words '*finger*-impressions,' used in this Bill, will be legally held to include '*thumb*-impressions.' The history of the introduction of the use of finger and thumb impressions into the Registration Department in Lower Bengal leads me to think that it would have been safer to have used the words 'digital impressions,' or to have added to section 3 of the Indian Evidence Act, I of 1872, the five words: '*finger*-impressions include *thumb*-impressions.' The system of taking '*finger*-prints was first tried in Bengal by Sir William Herschell when he was Magistrate and Collector of the Hooghly District. After his retirement from the service, he recorded a note on the subject, and, in 1892, sent it from Oxford to the Inspector General of Registration, who in April, 1893, recommended to the Government of Bengal the introduction of Sir William Herschell's system into the Registration Offices in Calcutta and in the districts of Hooghly and the 24-Parganas. In May, 1893, Government accepted the above recommendations and directed that every executant of a registered deed should make an impression of his first and third *fingers*, both on the deed itself and also in a register to be kept for the purpose. In March, 1894, the Inspector General of Registration recommended that an impression of the right *thumb* should be taken, instead of impressions of the first and third *fingers*. Government approved of this proposed change in April of the same year; but in the following April they substituted the left for the right *thumb*, and, from that date to this, only the impressions of the left *thumb* are used in the Registration Department. It seems to me, therefore, that if any Criminal Court should hold, in the absence of any definition of the words '*finger*-impressions,' that they do not include '*thumb*-impressions,' there is considerable risk of a failure of justice."

The Hon'ble MR. CHALMERS said :—" The point raised by the Hon'ble Mr. Toynbee was, I may say, suggested to the Select Committee from one or two quarters. We considered it and we came to the conclusion that such an objection surely could not be entertained by any Court. These impressions, whether finger-impressions or thumb-impressions, are popularly known as 'finger-impressions.' They certainly are technically known as 'finger-impressions,' and if you leave aside both the popular name and the technical name and look at the matter etymologically you still find that 'finger' includes 'thumb.' I took the trouble of going to the latest and most authoritative English Dictionary—Murray's Dictionary of the English language—and on looking at the term 'finger' I found the entry as follows :—

> 'Finger: one of the five terminal members of the hand; in a restricted sense, one of the four excluding the thumb.'

"But the primary meaning is, one of the five members of the hand, that is to say, primarily the term 'finger' includes 'thumb' according to the dictionary. I think, if I remember rightly, that in Oriental languages the same rule prevails: the thumb is commonly known as the big finger. Of course I may be wrong, and it is a matter as to which I should certainly follow the opinion of the Council. It seemed to us in the Select Committee that it would be almost as gratuitous to put in an explanation that 'finger' includes 'thumb' as it would be to put in an explanation that 'toe' includes 'great toe.' If Hon'ble Members here, who have very much more experience of Indian Courts than I have, think that a Court could go wrong, it would be better, of course, to provide against an error of interpretation. I do not think that in England the slightest difficulty would arise. Perhaps the discussion which has taken place in the Council to-day may be sufficient to call attention to the matter, but I am entirely in the hands of the Council."

The motion was put and agreed to.

The Hon'ble MR. CHALMERS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

GLANDERS AND FARCY BILL.

The Hon'ble MR. RIVAZ moved that the Bill to consolidate and amend the law relating to Glanders and Farcy be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Major-General Sir Edwin Collen, the Hon'ble Rai Bahadur Pandit Suraj Kaul, the Hon'ble Mr. Spence and the mover.

The motion was put and agreed to.

CARRIERS BILL.

The Hon'ble MR. CHALMERS moved that the Bill to amend the law relating to Carriers be referred to a Select Committee consisting of the Hon'ble Mr. Rivaz, the Hon'ble Mr. Allan Arthur, the Hon'ble Mr. Smeaton, the Hon'ble Maharaja Bahadur of Darbhanga and the mover.

The motion was put and agreed to.

The Council adjourned to Friday, the 17th February, 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Govt. of India,
Legislative Department.

CALCUTTA;
The 10th February, 1899.

Government of India Central Printing Office.—No. 503 L. D.—17-2-99—320 E. H.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 17th February, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

The Hon'ble Maharaja Rameshwara Singh Bahadur of Darbhanga.

INDIAN CONTRACT ACT AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Report of the Select Committee on the Bill to amend the Indian Contract Act, 1872, be taken into consideration. He said:—"On the last occasion when this Bill was before this Council I explained its principles very fully. I do not think it is necessary to repeat

that explanation. Since then we have very carefully considered the Bill in Select Committee. We have not altered its principle, but we have very carefully considered its terms, and I hope it returns to Council improved in language by being made clearer and more precise. In amending the language of the Bill we have been careful to use language which is familiar in English Courts of Equity so as to draw the English decisions to aid the Indian Courts. We have added some illustrations, and in particular we have added one illustration to show that the Act, or the Bill when it becomes an Act, is not intended in any way to apply to, or to affect, *bonâ fide* business transactions. We have tried to make it clear that what we aim at are cases where one man has another more or less under his power and where there are relations existing between them which enable one man to put unfair pressure on another, and that the measure has nothing to do, so to speak, with people coming into communication in the open market.

"I have only one further remark to make at this stage. Various hypothetical cases, I might almost say fanciful cases, have been suggested to us where possibly the discretion given to the Courts by this Bill might be abused and where possible hard cases might arise. I admit that you can, whenever you give a discretion, or wherever you give power to any authority, suggest hypothetical hard cases. It is an essential postulate of all legislation that when you confer powers and when you confer discretion on any authority, that discretion or those powers will be used with a certain amount of reasonableness, with a certain amount of commonsense, and with a certain amount of knowledge of the world. If you do not predicate that, then all beneficial legislation is simply impossible. Take for instance the Penal Code—an Act which has worked well for forty years. I would ask Hon'ble Members is there a single operative section in the Penal Code which would be tolerable for ten minutes unless it was worked with a certain amount of commonsense and fairness? You must in legislation, when you confer a discretion upon a responsible authority, assume that that authority has some discretion—some reasonable amount of commonsense. If you do not admit that, well then I must admit on my part that all legislation of a beneficial character is impossible, and that it were much better that this Council should not exist."

The Hon'ble THE MAHARAJA OF DARBHANGA said:—"My Lord, although I had not the honour of being a member of Your Lordship's Council during the earlier stages of the Bill, I feel that the measure is of such importance that I should not give a silent vote upon it. The broad principle involved is at the same time just and necessary for the equitable decision of a numerous class of cases which come before judicial tribunals, and it

purports to embody the results of the decisions of the English Courts of Equity which the Privy Council have declared applicable to India. How far it has succeeded I leave to the lawyers to judge. The main design of the measure is to protect the weak and simple from the clutches of unscrupulous money-lenders, and I hope it will in part help to solve the problem of land indebtedness, which has long been engaging the attention of Government. The serious thing about the Bill seems to be, as His Honour the Lieutenant-Governor of the Punjab remarks in his letter to Your Excellency's Government on the subject, the dangerously wide discretion which the Bill seeks to confer on the Munsifs and Subordinate Judges in this country. I cannot help fearing that the Bill if passed into law may lead to considerable increase in litigation and to more appeals, and that the only certain gainers will be the unscrupulous legal practitioners in the Mufassal, who will do their very best to foster disputes between the money-lender and the agriculturist and also to apply the law to contracts it was never intended to affect. If, however, the Subordinate Courts will use their authority with proper discretion and with a due regard to equity and commonsense, I trust that the amendment of the Contract Act may be a boon to the agriculturist borrower without unduly affecting the stability of the contracts by which the daily business of the country is carried on. There can be no doubt that the alterations made in Select Committee are in the right direction. My Lord, I think that even the most determined opponents of the Bill will admit that an earnest effort has been made to recast the more objectionable sections in the original draft, and I think that they have to a large extent succeeded. I hope that the placing of the measure upon the Statute Book may be productive of the beneficial results that have been anticipated from it, and that it may not produce the evils which so many fear. Not being a lawyer I am forced to take it a good deal on trust. I feel I am not on a footing of equality with the Hon'ble the Legal Member as regards legal knowledge, and had the Bill been passed in its original form and worked injustice I am not certain that I might not have evaded responsibility by pleading that my consent had been obtained by the exercise of undue influence on his part owing to that want of equality."

The Hon'ble MR. REES said that he would support the Bill, having signed the Report of the Select Committee, and would make his remarks on the principle when moving his amendment.

The Hon'ble MR. SMEATON said:—"I support the Bill as finally amended by the Select Committee, whose modifications appear to me to be judicious

and to remove many of the misgivings to which the Bill in its original form gave rise. I cannot help, however, concurring in some of the remarks made by the Hon'ble Member who has just spoken—the Maharaja of Darbhanga. The risk of the abuse or at least misuse of the very wide discretionary power conferred on subordinate and often inexperienced Courts certainly exists, as has been pointed out in very strong language by His Honour the Lieutenant-Governor of the Punjab. But I think in legislation which is designed to mitigate a widespread and serious evil risks of that description must be run. The relief to be given by an amending Act of this kind to the vast body of agriculturists, who, we are very well aware, are, in certain provinces at least, in the grip of the money-lender—that relief must, I think, be held to outweigh any risks of the kind which have been described by His Honour the Lieutenant-Governor of the Punjab."

The Hon'ble NAWAB FAIYAZ ALI KHAN said:—"My Lord, the Bill to amend the Indian Contract Act of 1872, now before Your Lordship's Council, is one of such intrinsic importance that I beg Your Excellency's permission to offer a few observations in regard to it.

"The object of this measure, my Lord, is, as has been explained in the Statement of Objects and Reasons by His Honour Sir John Woodburn, who introduced it last year, 'not to interfere with the freedom of contract where consent is free.' But it is intended to give the Courts a wider discretion in coming to an equitable decision in certain classes of inequitable contracts, where their power appears to be rather limited. Cases are well known where the Courts have refused to go behind the letter of the contracts however hard and inequitable and induced by undue influence, and this has resulted, as no doubt most of us are aware, in the complete ruin of many old respectable families. Contracts to secure debts have particularly led to such disastrous results.

"My Lord, the British Government is based on sympathy for its subjects, justice and generosity, and instances might be multiplied where Her Majesty's Government has, with that sympathy and generosity, come to the aid of Her subjects and has relieved the weak from the oppressions of the strong. Indeed, I may say that every measure taken by Her Majesty's Government, is characterised by the British sense of justice, the essential element of which is to protect the weak against the strong. It is this sense of justice which has led the Government to introduce some important changes into the present Indian Contract Act, which in some respects has been found to be unsuited to the present state of things.

"In many cases of contract to borrow money, the Courts have, as I have observed above, refused to grant relief to the debtor against the most inequitable and unconscionable conditions obtained by the creditor by the exercise of undue influence. This was, I believe, in a large measure due to the impression that under the existing law the Courts were bound to maintain the integrity of private contracts. The Government could not, however, look with indifference to this process of destruction of the landholders and agriculturists at the hands of the astute usurers and money-lenders—a process that has been going on for many years past to the detriment of the best interests of the country.

"It was of course possible for the Government to provide by law that an exorbitant rate of interest shall not be enforced or that effect shall not be given to an oppressive condition. But such a provision could not go to the root of the evil, which it is the aim of the Bill now before Your Lordship's Council to remedy; for it is a well-known fact that the money-lender in India usually evades every attempt of the law to restrain him from taking an unfair advantage of the position of his debtor, by causing him to execute a bond for the repayment of a larger amount than the amount actually advanced to him. It seems to me, therefore, that the Government has wisely undertaken to eradicate the evi from the root and to amend the law in such a manner as to secure an equitable determination of the rights and liabilities of the parties to a contract. This object could not be fulfilled better than by amending the Indian Contract Act in two important respects, namely, (1) as regards undue influence, and (2) as regards penalties.

"That the existing law in these respects has been largely improved and these two important expressions have been better defined, will be evident from a reading of the Bill itself as amended by the Select Committee, and I do not propose to go into the details of the amendments made by the Select Committee, beyond saying that, lucid and clear as the language of the Bill as it now stands is, the provisions of it cannot but be beneficial and succeed in achieving the objects which the Legislature have in view. I beg, therefore, to submit that I generally approve of the Bill as amended by the Select Committee, and I feel pretty sure that Her Majesty's subjects will hail this measure with delight.

"There is only one point as to which, my Lord, I beg to ask permission to say something. It may possibly be urged that it will be hard on the money-lenders and other persons interested that retrospective effect should be given to the provisions of this Bill. As to this, all I can say is that the object is a

most benevolent one—to remove an existing evil; and the sooner that evil is remedied the better for the interests of the country. There is another point of view from which this objection can be considered. The provisions of the Bill, it seems to me, are based on the assumption that contracts induced by 'undue influence,' as defined in the Bill itself, are, to the extent to which they are so induced, inequitable; and if the correctness of this assumption is admitted,—as I believe it is admitted on all hands,—contracts tainted by such 'undue influence' have no claim to the protection of law; and thus the date of the execution of the bonds representing such contracts is obviously immaterial. I, therefore, most cordially welcome the provisions of sub-section (3) of clause 1 of the Bill.

"With these few observations, my Lord, I beg to support the Bill, as amended by the Select Committee, the principles underlying it, and the provisions by which effect is to be given to those principles."

The Hon'ble MR. MEHTA said:—"My Lord, there is no branch of law or legislation in dealing with which it is so easy to go wrong, and in which mistakes are so fraught with far-reaching consequences, than the branch with which the Bill before the Council proposes to deal. There are men who firmly believe in posing honesty and morality by legislation, as our ancestors believed in enforcing decorum and propriety of manners by sumptuary laws. They think that it is only necessary for the State to fix a particular rate of interest, and usury would be annihilated; to prohibit the sale and alienation of their lands, and agriculturists would be saved from ruining themselves; to make all money-lending transactions liable to discretionary revision and adjustment, and Jews and Marwaris would become reformed characters, and creditors would become philanthropists. Such men take no account of the facts of human nature and the laws of its energy. When their remedies only succeed in driving the disease into another and perhaps a more vital part, they do not blame their own shortsightedness, but the perversity of social forces. On the other hand, there are doctrinaires who carry their fanaticism or superstition for the sanctity of contracts to such a length that they would sanction even murder by contract, like the grave senators of Venice who were prepared to enforce Shylock's bond until woman's wit came to their aid. The Common Law of England embodied nearly as solemn a view of the inviolable nature of contracts, and very nearly justified Shylock's retort to Gratiano,

'Till thou canst rail the seals from off my bond,
'Thou but offendst thy lungs to speak so loud.'

"Even in the English Courts of Equity the rigour with which the sanctity of a seal was enforced was only very gradually relaxed. As pointed out by Lord Campbell, when the foundations of the equitable jurisdiction of the Court of Chancery were first systematically laid by Lord Nottingham, 'the father of Equity,' he made it a guiding rule,—never, in the absence of fraud, to interfere with contracts or with obligations solemnly contracted.

'If a man,' said he, 'will improvidently bind himself up by a voluntary deed, and not reserve a liberty to himself by a power of revocation, this Court will not loose the fetters he hath put upon himself, but he must lie down under his own folly.'

"The boundaries of equitable jurisdiction in this behalf continued, however, to be slowly and cautiously enlarged and extended, till while, on the one hand, it was strictly held,

'that every person is entitled to dispose of his property in such manner and upon such terms as he chooses, and whether his bargains are wise or discreet, or profitable or unprofitable or otherwise, are considerations not for Courts of Justice, but for the party himself to deliberate upon,'

and, on the other hand,

'relief was given whenever his peculiar conditions and circumstances placed him under some disability.'

"These principles carefully matured by experience have not been lost sight of in framing the Bill before the Council, and I think the Hon'ble Members who have successively been in charge of it may well be congratulated upon the sober and cautious piece of legislation which they have turned out. They have wisely steered clear of the dangerous rocks which menaced them on either side. Nothing would have been more fraught with mischief than to treat the masses of the agricultural population almost as infants, incapable by their ignorance and weakness from making contracts for themselves with money-lenders, and for whom, therefore, the Courts should be empowered to arrange terms retrospectively. We are familiar with the piteous tales which are told of the helplessness of the raiyat gripped in the claws of the saukar bird of prey. But the picture is not altogether true to nature. The raiyat is no doubt illiterate and uneducated. But those who know him as he really is, and not as he exists in the imagination of people who like to pose as *mà-bàp* to him, know that he possesses a very fair share of shrewdness and intelligence, and can negotiate a bargain with the saukar with a clear comprehension of his interest and position, and even with some degree of cunning. Why he is not able to cope with his creditor is, not because of his ignorance, but in consequence of his

necessitous position This position it must not be forgotten, is as largely owing to the pressure of the State landlord as to the grasping rapacity of the money lender. To speak only of the Bombay Presidency, it was admitted by Sir Theodore Hope, himself a Bombay Revenue-officer, in his speech in this Council in introducing the Dekkhan Agriculturists' Relief Bill, that to our revenue system must in candour be ascribed some share in the indebtedness of the raiyat' The Commission appointed in 1891 to enquire into the working of the Relief Act emphatically reported that—

'there could be no question that the rigidity of the revenue assessment system is one of the main causes which lead the raiyats of the Dekkhan into fresh debt'

'The proper remedy in such a case is not to treat the symptom simply, but to remove the cause To take away from the raiyat the power of making binding contracts for himself would be more calculated to aggravate than to alleviate the malady, while it would be unjust to the saukar to have his terms and conditions retrospectively settled by Courts which could neither enter into the intricate complexities of the respective positions of the two parties nor could have the means of taking into account the element of average risk of a general business which to a certain extent must rightly affect the severity of each individual contract But while it would be thus both mischievous and unjust to treat raiyats or agriculturists in their relations to saukars as *quasi* infants whose weakness and ignorance required special protection, there is, on the other hand, no reason whatever why contracts between saukars and raiyats should not be treated on the same footing as all other contracts, whenever extraneous circumstances dominate the bargain and enable one party to take advantage of another beyond the adjustment which the circumstances conditions and necessities affecting the contract in itself would require or warrant The equitable jurisdiction of the English Courts has slowly but increasingly recognized the right of interference in such cases In the admirably terse and clear speech in which my Hon'ble friend in charge of the Bill moved to refer it to a Select Committee he claimed that the new legislation proposed to invest Indian Courts with equitable powers which had long been possessed by English Courts I am not prepared to say that this statement may not be open to challenge in some degree If it were quite accurate, the need for the proposed legislation would not be very urgent, for our Courts have already found a way to go somewhat beyond the provisions of the Indian Contract Act in this behalf, which, it must be remembered, 'defines and amends only certain parts of the law relating to contracts,' and to administer relief in most of the cases covered by the equitable doctrines of English law

founded upon the existence or presumption of actual or constructive fraud. It cannot also be denied that English equity has hitherto failed to reach many cases, which it is hoped to reach by the present Bill, or there would have been scarcely any need for the recommendations of the Select Committee on money-lending for the interposition of the legislature to remove the evils attendant on transactions with professional money-lenders. It is true, as pointed out by the Hon'ble Member, that the general principle deduced by text-writers of authority embraces all the variety of relations in which dominion may be exercised by one person over another. But the Hon'ble Member knows that English Courts do not deduce cases from general principles, but that the elasticity and generality of principles are firmly restrained by decided precedents which strictly curb the playfulness of idiosyncracy within known limits. But while the measure before the Council is devised to go further than the existing precedents of equitable jurisdiction in England, the Hon'ble the Legal Member is perfectly right in contending that we are not embarking on an unknown sea. The step in advance which we are taking is in the direction in which experience shows that we can advance with reasonable safety. It will be observed that, under the Bill as amended in Select Committee, it will not be enough for the purpose of bringing a contract under the purview of the new addition to the definition of 'undue influence' that one contracting party is richer, or stronger, or poorer than the other. A party does not come within the section simply because, for example, he lends money to another. Besides and outside the relation created by a particular contract, there must be a relation already subsisting between the parties which places one at an advantage over the other. The dominating relation, so to say, must not be the creation of the particular transaction in question, but must emanate from something already subsisting before and outside it. The amendments in Select Committee have also made important changes as to the way in which the Courts should proceed when the existence of a dominating relation is established. Where such relation arises out of a position of active confidence in which one party stands to the other, the law applicable will be the existing law, as contained in section 111 of the Indian Evidence Act, which is in accordance with a principle long acknowledged and administered in Courts of Equity in England and America, and which is that he who bargains in a matter of advantage with a person who places a confidence in him is bound to show that a proper and reasonable use has been made of that confidence, and the burden of establishing its perfect fairness, adequacy and equity is cast upon the person in whom the confidence is reposed (*Story on Equity Jurisprudence*, pp. 309-322). In cases in which the dominating relation is not coupled with a position of active confidence, there is another

condition to be satisfied, also in accordance with a rule of English equity, before the burden of proof is imposed on the person occupying the dominant position. In such cases the Courts will not interfere till the transaction appears on the face of it or upon evidence given in the case to be unconscionable. The propriety and wisdom of this rule is not in itself disputed. But it is contended that the law will be left in a very vague condition, as no definition of what is unconscionable is provided in the Bill. I confess that this criticism strikes me as being not quite well-informed. There are words which, in law as in everything else, do not require definition and cannot indeed be defined, but which are all the same perfectly well understood. In this respect the word 'unconscionable' is, in law, something like the word 'jingo' in politics. As Mr. Morley said the other day, it is not possible to define a jingo, but he knew him when he saw him. It is the same with the word 'unconscionable.' It is incapable of definition. Even Lord Hardwicke, who reared the superstructure of English equity on the foundations laid by Lord Nottingham, failed in the attempt when, in *Chesterfield v. Jansen* (2 Ves. 155), he tried to indicate in his enumeration of different kinds of frauds that unconscionable bargains were—

'such bargains as no man in his senses and not under delusion would make on the one hand, and no honest and fair man would accept on the other, being inequitable and unconscientious bargains.'

"Mr. Story is not more successful when he says that to make a bargain unconscionable—

'such unconscionableness should be made out as would (to use an expressive phrase) shock the conscience.'

"But, though indefinable in itself, the word is perfectly familiar to equity jurisprudence and is well understood in practice. It can best be interpreted in each particular case in the light of its own particular facts and circumstances. Decided cases show what facts and circumstances make a contract unconscionable, and, what is equally important, when they do not. It must be remembered that our Civil Courts are not ill qualified to deal with the legal questions arising from the use of the word. In the Bombay Presidency at least, they are now manned in the lowest grades by men who have passed through the pretty severe legal training which is enforced by our Universities before conferring the degree of Bachelor of Laws. The Subordinate Judges have all gone through a careful study of the elements of English equity, and are acquainted with its decisions. But if any prepossessions or idiosyncracies have at any time any tendency to betray them into either undue timidity or wild extravagance, the

High Courts are over them to correct and to direct. I think, therefore, that the Bill before the Council may be launched on its voyage without serious misgivings. It is never safe to dogmatize emphatically with regard to legislation affecting the infinite complexities of the common intercourse and business of human life, but it is not presumptuous to hope that this measure will prove to be a sound, cautious and careful piece of legislation which, without breaking out into mischief in unexpected quarters, may be reasonably expected to do some good."

The Hon'ble MR. CHITNAVIS said :—" My Lord, I fully sympathize with the main purpose of the Bill, which I take to be the relief of poor and ignorant persons from the ruinous consequences of such transactions as they might have been induced to enter into under the influence of wily men whose help they had been led to seek at a moment of distress. So far the proposed law seems to be all right in principle, but the question is whether it will secure the desired end. It must never be forgotten that in the present state of our country all artificial restrictions upon lending and borrowing money would make the terms for the borrower harder than ever. It is doubtful whether all the checks that human ingenuity can devise will come to the borrower's help when the saukar makes up his mind to take undue advantage of each opportunity that offers itself to him. There are as many methods by which a lender can harass a helpless borrower as there are for a borrower to harass the helpless lender when repayment of loan has to be made. Of these, no Court in this country can take any cognizance whatever. My honest conviction is that this matter of lending and borrowing money must be allowed to be regulated by the law of supply and demand. No man with a grain of sense will pay a higher rate of interest if he can elsewhere borrow money on more favourable terms. The natural remedy, I think, must come by competition among money-lenders, by the demand there is for money, by the nature of the personal credit which the borrower possesses, by the facilities for recovering money, etc.

" It seems to me that the position of a rural money-lender in India is not well understood by many, and too frequent appeals are made to facts in England to justify a proposed legislation in this country. India, however, is not England. In England and other European countries there are many agricultural and other banks, co-operative societies and many institutions of a philanthropic character which can give the needed relief to the poor of the country. But here, in this country, where, as is stated in certain quarters, '40 per cent. of the population go through life on insufficient food,' the capitalist (*i.e.*, the saukar,) takes the place of all these institutions, and it is to him alone that the raiyat has to look up for his preservation and for the preservation of his family. Nor is the raiyat's confidence

misplaced in a majority of cases. The saukar is generally a man of business, and, as he is also a landholder, he seldom resorts to oppressive measures for the recovery of his dues. In many cases he consents to forego some portion of the stipulated interest when the amount due is paid to him without the necessity of resorting to Law Courts. When the borrower has got sufficient credit and the security is good, the saukar rarely takes more than what is reasonable. In other cases, his terms will have to cover various risks, such as the costs of a law-suit, the trouble and expense he might be put to in his endeavour to recover his dues, as well as the risks attendant on variation of prices, etc. In most cases he is not such a tyrant as he is believed to be. The reason why we hear so much against him in these days is because the tendency now is to bring to light cases where injustice is done to borrowers, but many hundreds of cases where the lender has shown the greatest possible consideration to the borrower never see the light of the day. As the saukar generally happens to be a landholder also, and as he has got to depend upon his raiyat customers for the tillage of his land, he cannot afford to be a Shylock towards them. Whenever a debt becomes ripe for payment, most saukars agree to forego a portion of the accumulated interest. In an agricultural country like India, any legislation which is likely to tell hardly on these men and render their position precarious will, I fear, have the effect of restricting loans and increasing litigation by encouraging borrowers at the instance of lawyers to take advantage of the large discretion left to Courts. No doubt, it is extremely desirable that the poor should be saved from the clutches of the money-lending classes, but at the same time it must never be forgotten that it is the demand on the part of the borrower that brings into existence the lender, and that the money-lending classes have a right to the protection of the law in all honest contracts entered into by them. What I fear is that this protection has not been sufficiently assured in the Act before us. Honest and conscientious money-lenders will henceforth feel frightened to unloose their purse-strings, and leave the field open to unscrupulous and dishonest people.

"Being anxious, however, that a measure conceived in a spirit of fairness and generosity may not in its operation come to defeat its own purposes, I have carefully attended to the details of the Bill as settled by the Select Committee, and as the result of such consideration have decided to move the amendment which stands in my name and which I intend moving later on with Your Excellency's kind permission."

The Hon'ble MR. LATOUCHE said :—"The amendments made by the Select Committee have, I think, removed the objections—some of them of considerable weight—which existed against the Bill as originally drafted The

definition of undue influence has been much improved, and the burden of proving the existence of undue influence ordinarily rests, as in the general law of evidence, on the person who impeaches a contract. It is only in one class of cases that the person in a position to dominate the will of the other party to a contract is bound to prove the absence of undue influence.

"That class of cases is when the transaction appears on the face of it or on the evidence adduced to be unconscionable. This means that the burden of proof is only shifted if the contract appears to be such as no honest or fair man would allow another person to enter into with him.

"Many of the objections urged against the measure are objections against the conferment on the Courts of a general equitable discretion to set aside contracts which the Courts may consider oppressive, harsh or unreasonable. No such power was or is conferred by the Bill.

"When no relationship exists between the parties such as will enable one of them to dominate the will of the other, the question of undue influence cannot be raised. This I understand to be the meaning of illustration (*d*) to clause 2. When such a relationship is alleged it is for the person who asserts its existence to prove it. Having proved the existence of the dominant relationship, the person who impeaches a contract is further bound (except in the case of an apparent unconscionable contract) to prove that an unfair advantage was taken over him by the other party; that is, that having regard to all the circumstances of the case the advantage actually taken was unfair, and such as could not have been obtained except owing to the existence of the special relationship.

"In practice the operation of the Bill will have effect chiefly in the class of contracts of which an illustration is given in clause 2 (*c*). This illustration has been considerably amended by the Select Committee, and the debtor is not assumed to be an agriculturist as in the original draft. Yet, no doubt, in almost every case of village money-lending the debtor will be an agriculturist. I do not understand the meaning of the illustration to be that whenever a village money-lender makes a loan to a person already in his debt the Courts shall presume the existence of a dominant relationship. But I think that, having regard to the common course of business in village money-lending, the Court may ordinarily presume the existence of a dominant relationship under section 114 of the Evidence Act. It is unquestionably true that an agriculturist who is in debt to the money-lender of his village is not in a position to exercise a free consent in declining to enter into an unconscionable bargain. In the existing state of agricultural economy in the country an agriculturist must, in order to

carry on his cultivation, obtain advances. The village money-lender will never allow him to transfer his custom to another banker. Should the agriculturist attempt to do so, the village money-lender will at once obtain and execute a decree for the total amount of the previous debt.

"I think that the proposed legislation will have some good effect in discouraging creditors from forcing unconscionable contracts on their debtors. I do not believe that it will prevent loans being made as at present or hinder customary transactions between lender and borrower. It will not affect the honest banker who seeks to obtain by his trade a fair and customary advantage commensurate with the risk which he runs, nor will it aid a dishonest debtor to repudiate a reasonable, even though onerous, contract which he has made when he is capable of understanding it and of forming a rational judgment as to its effects upon his interests."

The Hon'ble SIR GRIFFITH EVANS said:—"If this matter had been *res indica* and if we were now discussing the best means of relieving the agriculturist, I do not think I should have attempted to do so by amending the general law of contracts. Though it is perfectly true that the money-lender, or mahajan, is an absolutely necessary part of the agricultural system of India, yet it does not follow that some restrictions might not be placed upon him. We have already placed very large restrictions upon the landlord. We have treated the raiyats in their relation to the landlords as a class of persons who ought to be protected. We have prevented the landlord taking interest on arrears of rent at more than 12 per cent. We have prevented his making an enhancement by private agreement of more than two annas in the rupee. We have provided that in many instances the raiyats should not be allowed to contract themselves out of certain rights which we thought it was essential that they should retain, knowing that they might under pressure be induced to sign a document relinquishing those rights If then we have gone so far to protect the raiyats against the landlords, I do not see why we should not have taken steps to give a reasonable protection to the raiyat in his dealings with the other person who is a necessary part of the agricultural system, that is to say, the mahajan or money-lender; and it seems to me that it would have been better to pass different Acts for the different provinces which would meet the peculiar conditions and relations between the agriculturist and money-lender in the different local areas where they vary very considerably; but it was decided that this should not be done, and when I came to consider the matter I found that the Government had resolved to give the agriculturist such relief as they could by this means, and not by the other. I was not myself in a position to formulate any Bill for regulating the relations

between the money-lenders and the raiyats which would have produced the desired result. Government alone, aided by the reports of local officers of the different provinces, could have ventured to undertake such a task. I have come to the conclusion that it was better on the whole to accept the present measure.

"Now as regards the measure itself, apart from this question of the agriculturist and money-lender, I should prefer that the Bill should not be carried, and for these reasons. No doubt, as pointed out by the Hon'ble the Legal Member, the Contract Act only deals with some particular classes of the cases in which Courts of Equity set aside or modify contracts, but, owing to the fact that the Contract Act itself is only an Act to define and amend certain portions of the law of contract, it has been held by the Courts, and notably by the Privy Council, that the Contract Act is not exhaustive upon this point. It does not sweep away the broad equitable doctrines upon which Courts of Equity are wont to interfere at home; and when once that had been fairly laid down by the Privy Council and become recognised by the Courts in India, that the Contract Act did not in any way diminish the power which they had before according to the English cases, that they were still at liberty to follow the English cases and to give relief in cases not provided for by the Contract Act, the advance of the Courts was rapid, and you find case after case in which a number of matters have been dealt with, which are not in any way covered by the Contract Act, but which have been dealt with by virtue of the English equitable doctrines. Seeing then that the Courts have gone so far and so successfully in following and applying the English doctrines, I should have preferred to leave them to go on in that course, sooner than attempt anything in the nature of a definition. It is very difficult to define in this particular branch of equity. I am not certain that the Bill covers the whole of the cases or deals with all the considerations which are dealt with in the Courts of Equity. On the other hand, there is ground for fearing that, this being a written Code, the Courts may consider they are entitled in some directions to go further by virtue of the words of the Act than the Courts would have gone in England. It will be found, I think, on analysis that although there may underlie all these cases the idea of a dominating position on the one side or a want of equality in the contract on the other, yet that in some of the cases this is but a small part of the consideration, not the most important part, that governs the Courts of Equity in giving relief. With regard to champertous contracts, although there be no subsisting relation between the borrower and the money-lender at the time when he goes to the money-lender to solicit a loan, yet the Privy Council has laid it down, and the Courts have carried out that view, that they will import the principle which governs the Courts of Equity in dealing

with what they call 'catching bargains' with heirs and reversioners; that is to say, that they will regard this kind of contracts jealously and not enforce them if they are extortionate, although it is very difficult to say that there is any subsisting relation of domination which causes the equity to arise. However, I am glad to think that this Bill will only be an amendment of an Act which defines and amends certain parts of the law of contract, and I think, if we have fallen short in covering all the cases and boiling down, as it were, all the principles that are involved in the administration of relief in the Courts of Equity, that we have not shut the door, that the Courts will still interpret this amending Act in the same way as they have interpreted the old Contract Act; that is, they will say this is not exhaustive. I think the Courts will say that this Act has not had the effect of repealing, as it were, or extinguishing, any principle of equity There are many parts of law and equity which it is desirable to codify; but when, as here, elasticity is of the essence, as it were, of the equity, it is dangerous to do so. This head of equity deals with exceptional cases, but the written rule may be applied by ill-informed Courts to classes of contracts it was never intended to apply to. The rule was so wide in the original Bill that there was good ground for fearing it would interfere with that stability of contract upon which commerce and the daily business of the country depends. The amendments made in Select Committee have greatly lessened this danger. I trust it will only be applied to the exceptional cases for which it is intended.

"The only part of the portion of the Bill which deals with undue influence which is likely to do much for indebted agriculturists is illustration (c) to section 2. I hope that that illustration will have some effect in showing the inferior Courts that they are at liberty in exceptional circumstances of extortionate bargains to give relief—not of course to regulate and interfere with the ordinary rate of interest at which the mahajans are in the habit of lending and which must be determined by the risks of the business.

"Whether it was worth while to amend the general law of contracts to obtain so small a result at so considerable a risk seems doubtful.

"Then I turn to the second branch of the Bill. With regard to this, it is to be observed that, if it were not for the illustrations, it would be unnecessary and useless. The position of affairs stands thus. Section 74 of the old Contract Act dealt simply with this: according to the law in England, the Equity Courts could relieve against all penalties, but there was a distinction between a penalty and what was termed liquidated damages, that is, a sum agreed to be paid on breach of a contract; and where the Courts came to the conclusion that the sum mentioned in the contract was in the nature of liquidated damages, there

they would not interfere in giving any relief; but there was so much difficulty in knowing whether a stipulation was really for liquidated damages or was really a penalty, that it was thought better by the framers of this Act to place all liquidated damages on the same footing as penalties and so to enable them to be relieved against, and only the actual damage given and not the sum named. That was all that this section was intended for, but it was assumed that penalties would always be relieved against, and no one has ever doubted it. The difficulty was to define what was a penalty. Now, the mere putting in these words in section 74, 'or if the contract contains any other stipulation by way of penalty,' was wholly unnecessary, because they were always relieved against, and no Court ever doubted that. But these words, useless in themselves, have been used as a sort of peg to hang certain illustrations on. We have not attempted to give a definition of penalty, but by means of illustrations we have got rid of some of the difficulties, and these illustrations point to the principle that in every case where the question is one of penalty or not it must be a mixed question of law and fact. The Court is not bound by the form of the deed; it must examine the substance of the transaction and judge whether it should be taken to be a stipulation intended to be carried out as part of the contract or a provision to secure performance, and we have indicated that one of the best tests in practice is to see whether the stipulation would be wholly unreasonable if regarded as an integral part of the contract. We have not formulated that proposition, but we have by the illustrations indicated it. Then we have given illustrations which deal with various kinds of penalties which are not penalties according to the form of the bond, but are penalties according to the reality of the transaction. This does not seem to be a very artistic piece of legislation, but I hope it will make up in utility what it lacks in beauty. I have felt it necessary to trouble the Council at some length with my views on this matter, because I wished to explain how I thought the Bill was likely to work and why I am prepared to vote in favour of its being passed though I am not without misgivings as to its successful working"

The Hon'ble MR. CHARLU said:—"Having regard to its very wide scope I have my doubts about this measure. Nothing that has come within my observation suggests the need for a remedy rather sweeping. It is directed at an evil which cannot be eradicated. An undue lenity, as I take this and similar measures to mean, may not, in the long run, benefit those meant to be benefited. It will introduce friction and hardships now unknown, where there is more or less pacific understanding. My acquaintance with the agricultural classes in my Presidency, so far as it has gone, convinces me that they are uniformly

thrifty and very rarely go within the clutches of hard money-lenders. They need no protection, and this Bill may in their case throw in their way a temptation to contest without just cause in many instances, and go into the clutches of fresh lenders, unused to them, and fare worse.

"Now, I would perhaps accept the Bill as substituting a procedure resembling arbitration for strict law, which must needs be harder. But there are Appellate Courts to revise the discretion exercised by the first Courts. It is not always that the Appellate Courts abstain from unduly interfering, nor are verdicts of the first Courts uniformly faultless. These imperfect conditions would often necessitate and in some cases develope the practice and temptation of trying appeals from the judgment of one single man to that of another single man on less tangible grounds than now. There are reasons enough to incline one to disapprove of this measure as a whole.

"But there are as many grounds for it as against it; and I must say that it is safer to allow the experiment, which is influentially and officially supported, as we are not legislating for all time to come. The measure, I hope, may prove an important check on the unscrupulous men who catch expectant heirs and ease them of their fortunes, long before they are taken full possession of. The existing law has been found not to be altogether adequate in many such cases. If this measure will do no more than act as a deterrent on that class of ruinous lenders and their like and strengthens the hands of Courts by legislation of the present case-law, it will be a great blessing. It is as necessary for this purpose as it is unnecessary for many other of the purposes falling within its purview. In this view, I would not oppose the motion before the Council."

The Hon'ble MR. RIVAZ said:—"I agree so entirely with all that the Hon'ble Member in charge of the Bill said the other day in explanation of its necessity that my remarks need be very brief. The enlarged powers with which the Courts are being armed by the proposed amendments in the Contract Act will of course be applicable to contracts and agreements of all kinds, but it is pretty certain that they will chiefly be exercised in cases of dealings between money-lenders and borrowing agriculturists. I am not among those who consider that every money-lender who has any business transactions with a member of the agricultural classes in this country is necessarily an unprincipled extortioner, or that every agricultural borrower is a poor simpleton who is unable to understand whether he has been treated fairly or unfairly. The money-lender, as my Hon'ble friend Sir Griffith Evans has just said, is a very useful and even

an indispensable element in the composition of rural society in this country and I am ready to believe that in the main the money-lending classes are reasonably fair and just in their dealings with their agriculturist clients; but there can be no doubt that the money-lender is often in a position which enables him to take an unfair advantage over the borrower, and it not unfrequently happens that he does avail himself of this advantage. The main object of the provisions which we are considering is to enable the Courts to interfere effectively in such cases, and to apply an equitable remedy, and I confidently hope that they will exercise these most useful powers with judgment and discretion."

The Hon'ble SIR JAMES WESTLAND said:—"I should like to say a word in support of the remarks which have fallen from my Hon'ble friend Mr. Rivaz. I deprecate any idea going abroad that this Bill, so far as my connection with it is involved, is based upon the theory that the village-saukar is a man to be put down. I believe him to be a very necessary element in Indian political economy, and that he exercises a profession which is extremely useful, so far as I am concerned. My revenue comes in punctually mainly because the village-saukar is willing to convert a debt owed by the raiyat to the Government into a debt owed by the raiyat to himself. There have, however, been too many cases in which it has been shown that the village-saukar has improved his position unwarrantably by putting himself into the place of the raiyat as the occupant of the land, and that is a condition of things which does not tend to the benefit of the country either politically or economically. There is also another point on which I wish to make an observation, and that is with regard to the explanation given by my Hon'ble friend Mr. Mehta, who traces back all the difficulties that arise not from the raiyat getting into the hands of the saukar, but into the hands of an unscrupulous Government—that is to say, he attributes these difficulties to the rigidity of the revenue system. I was pleased to observe that when he made that remark the only opinion he could urge in support of it was the opinion of a very distinguished official who retired from India eighteen years ago; and I think my Hon'ble friend Mr. Mehta may take it for granted that a question which has been before Government for the last eighteen years, and which the Government has endeavoured to meet, has been by this time regulated. As a matter of fact, the collection of the revenue has departed for many years from that ancient rigidity that used to characterise it, and I think it may be asserted that neither in Bombay, nor Madras, nor elsewhere, is the raiyat driven to ruin by the Government insisting on the realization of its dues with improper severity."

The Hon'ble MR. CHALMERS said:—"I propose to reply very briefly to the remarks that have been made by Hon'ble Members. The course of

the discussion is, I am glad to see, on the whole favourable to the Bill, and in attempting to reply to the various difficulties that have been raised, my task is lessened by the fact that to some extent difficulties raised on one side of the table have been answered by the difficulties raised on the other side of the table. I may explain what I mean. I think the Hon'ble Maharaja of Darbhanga felt a doubt or difficulty on this ground: this Bill, which is framed somewhat in the words of English equity, will have to be administered by Munsifs and Subordinate Judges. Well, I think my Hon'ble friend Mr. Mehta has kindly answered that for Bombay. He says that in Bombay the Subordinate Judges and Munsifs are well-trained men, and, moreover, in all cases of course there is an appeal. But the real answer I think comes from the doubts felt by my Hon'ble friend Sir Griffith Evans. He has pointed out that the Contract Act is not exhaustive. He has further pointed out a case where the High Court of Calcutta, I think, held in terms that the Courts were not bound by the narrow restrictions laid down by the existing Contract Act, but that they were free to roam over English equity, and English equity of course not binding them, but only pointing the way to what they happen to consider to be justice, equity and good conscience. English equity does not bind the Courts here. The Courts here only follow English equity or English decisions where there is no binding rule of Indian law, and where they are administering the law according to justice, equity and good conscience. That I think answers my Hon'ble friend the Maharaja of Darbhanga's difficulty. Surely it is better for us to lay down a line to indicate the lines on which these lower Courts are to act than to leave them free to wander over all the decisions of English equity, or to quote from the work quoted by the Hon'ble Mr. Mehta—*Story's Equity Jurisprudence*—which is an American book—it is much safer to indicate to these lower Courts the general lines on which they are to proceed than to leave them free to wander at will over all English and American jurisprudence

"Then another point was made. It was suggested that there was some objection to this Bill in so far as it gave retrospective effect to the new provisions. There again we are in point of fact merely limiting the discretion of the Courts, and indicating on what lines perfectly unfettered discretion is to be exercised, and of course the Bill will only apply to suits brought after the commencement of the Act. It will have nothing to do with pending suits.

"There is one other point that my Hon'ble friend Sir Griffith Evans has called attention to, and which I am glad he did call attention to, and that is the use of the words 'subsisting relations.' That I think was necessary. It was

necessary to point out that at the moment that the contract is entered into there must be something external to the contract itself which puts one party in the power of the other. The mere fact that one man has money and another man wants it does not give rise to an unconscionable contract. There must be at the moment of the contract—the relations may have sprung into existence almost contemporaneously—some relations which give one party an unfair pull over the other.

"Then my Hon'ble friend Sir Griffith Evans also pointed out that there may be certain cases of inequitable contracts quite outside this Act. As regards those contracts the powers of the Courts still remain, but the object of this Act is partly to direct the lower Courts as to the lines on which they should move, and partly to call the attention of the Courts to the fact that they have powers further and other than those already given by the Indian Contract Act. It is quite true that that doctrine has been recognised here, but it has not been recognised generally all over India. The Courts have held themselves bound to the particular words of the Act, and have refused to look into inequitable bargains because they were bound by the terms of the Act and could not go behind them. We have to remind the Courts that they can go behind them, and at the same time we have laid down the lines on which they can go behind them. There was one other point raised by my Hon'ble friend Sir Griffith Evans, and I think my Hon'ble friend Mr. Rivaz gave the answer to it. My Hon'ble friend would rather that we had legislated directly with regard to the relations of money-lender and agriculturist. As my Hon'ble friend Mr. Rivaz says, we recognise that the money-lender is an essential factor in Indian society as at present constituted. We do recognise—and gladly recognise—that the great mass of transactions between the money-lenders and agriculturists are fair and reasonable transactions. We do not want to legislate against money-lenders, but we want to legislate against unconscionable bargains. We are not now legislating against a class, but we are legislating against unconscionable bargains—bargains which offend the conscience of humanity, and that is the scope and aim of this Bill."

The motion was put and agreed to.

The Hon'ble MR. CHITNAVIS moved that for sub-section (3) of section 16 of the Indian Contract Act, 1872, as proposed by clause 2 of the Bill, as amended, the following be substituted, namely :—

"(3) Where a person who is in a position to dominate the will of another, but who does not stand to him in a position of active confidence, enters into an agreement with

him, the burden of proving that such agreement was induced by undue influence shall lie upon the person who seeks to have the agreement set aside on the ground of undue influence '

He said —"I must say that I move this amendment with considerable diffidence, as the amending Act has been shaped by the combined wisdom of many Hon'ble gentlemen learned in the law But I think it is in accordance with general principles that a person seeking to avoid liability for his own actions and setting up a special circumstance as a defence has to discharge the burden of making good his defence Where a person charged with having committed a murder pleads in his own defence insanity or accident or the right of private defence, the burden of proof would lie on him for making out such a defence In Civil Courts, where a person repudiates an obligation under a document which he has signed, and alleges that he signed it under a mistake or in consequence of fraud practised on him, the burden of proof would be on him to make out such a defence I therefore submit, my Lord, that where a debtor seeks on the alleged ground of undue influence to avoid an agreement which he has entered into, it should be for him to prove the undue influence on which he relies for the repudiation of his obligations

' I quite appreciate, my Lord the purpose of sub-section (3) as it now stands It gives to Courts the power of raising the defence of undue influence ' where it is not raised by the defendant himself It seems to me, however, that the power here proposed to be given to Courts is much too large The word 'unconscionable' has not been defined in the Bill, and I am not sure that it is possible to define it in a way free from objection If then, Courts are permitted to presume 'undue influence' where they consider a transaction to be 'on the face of it' unconscionable, the discretion so vested in them may often be exercised in a way which may, I fear, cause dissatisfaction among large classes of people, uncertainty as to the state of the law, and a panic among money-lenders Where, 'on the evidence adduced,' the transaction appears to be unconscionable, Courts will no doubt have better reason for placing the burden of proof as the sub-section directs, but, then which is the party that adduced the evidence? The person who dominates the will of the other party will not give evidence against himself, and if the evidence which shows a transaction to be unconscionable has been adduced by the party seeking to set it aside, then in substance this part of the sub-section is very largely the same as my amendment, which, however, has this advantage, that it gets rid of the notion and the word 'unconscionable,' and assimilates the provision to the general law of the country instead of making it a new departure

"I speak with diffidence on a technical point of law, and, even if I was able, I should be as unwilling as the Hon'ble Law Member to inflict on the Council 'a disquisition on English law.' I beg leave, however, to refer to one or two principles which appear to be undisputed alike in England and India. With regard to voluntary donations, the principle invariably recognised by English Courts of Equity seems to be that, except in cases where certain specified intimate relations exist between the donor and the donee, undue influence must be *proved* against the donee in order that the gift may be set aside.

"The law in regard to the burden of proof on the subject of undue influence is thus summarised by Sir Frederick Pollock in a recent work :—

'Parties in an independent position are masters of the terms they choose to make; but when the terms made between parties in confidential relations are such as, judged by the reasonable and ordinary practice in affairs of the same kind, appear unconscionable, it is an almost necessary inference that the confidence of the client has been abused and undue influence exerted. On the other hand, the Courts will not easily give credit to mere surmises and suggestions of undue influence where there is no relation between the parties naturally producing general authority on one side and general deference on the other, and where it is not proved that their habitual conduct was of this kind.'

"I find that the passage quoted by the Hon'ble Law Member in his speech begins with this remark :

'Agreements between persons in certain relative positions are treated in equity as presumptively made under an undue influence of one party upon the will of the other.'

"I take the effect of these authorities to be that in agreements between persons standing in certain special, intimate or confidential relations to each other, the presumption of undue influence will arise, having the effect of placing the burden of proof on the party claiming the benefit of the agreement. Where those relations do not exist, the ordinary rule must prevail, and the party repudiating the transaction must prove that he was induced to enter into it by undue influence. That seems to be the principle recognised alike in England and India, and, if it is not a presumption to say so, it is a rule founded upon considerations of fairness and justice. I see no reason why it should be departed from in the Act we now propose to pass. It does not appear that even the House of Commons Committee, to which the Hon'ble Law Member made reference, has made any recommendation (in regard to the law of the burden of proof in cases of undue influence) similar in point of principle to sub-section (3) of this Bill. The law as to the burden of proof, 'where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence,' is laid down in section 111 of the Indian Evidence Act. The law

as to the burden of proof in all other cases of undue influence should, I am humbly of opinion, be put in the form which I am now suggesting as a substitute for sub-section (*3*) of the Bill before us."

The Hon'ble MR. CHALMERS said :—"I am sorry to say I must oppose a direct negative to my Hon'ble friend's amendment. It would cut the life out of this clause if accepted. It would alter the burden of proof and make the party who has entered into an unconscionable bargain prove his case the whole way through. We have modified the Bill as it originally stood, and we have provided that, first of all, the party must show the nature of the existing relations. He must give some evidence to show that he was subject to the party who dominated him, and we have provided that some evidence must be given that the contract was unconscionable, and that then, and then only, the burden of proof should be shifted. That is going as far as we can in the way of concession, and it is going further than the English law. According to English law, as soon as the suspected relationship is established, the burden of proof shifts, and it lies on the other side—on the dominating party—to show that the contract was in point of fact fair, just and reasonable."

The Hon'ble MR. REES said :—"My Lord, I oppose this amendment. If it were accepted, it would be useless to go on with the Bill, the most important change in which is the shifting of the burden of proof in cases when the contract is on the face of it or on the evidence unconscionable. The latter all-important proviso, added in Select Committee, makes the Bill a fair effort to relieve the unduly influenced without prejudicing the parties in ordinary contract cases, and its maintenance is vital to the measure as it stands. I cannot help referring to the Hon'ble Mover's statement that 40 per cent. of the people go through life on insufficient food. I tried to meet this statement in a budget debate three years ago, and this is not the occasion for repeating the effort. I will only say that I believe this statement to be untrue of any years in India—good, bad, or average. It is not now true even of famine years. It appears to me to be a grave exaggeration."

The Hon'ble MR. SMEATON said :—"I entirely agree with the argument of the Hon'ble the Legal Member in opposing this amendment. It seems to me that, if that clause of the Bill is so amended as to shift the burden of proof in the way described, it would be taking away a principle which is vital to the Bill; it would, in fact, emasculate the Bill and leave the law practically as it stands at present. Under those circumstances I oppose the amendment."

The Hon'ble SIR GRIFFITH EVANS said :—" I also oppose this amendment. It is, as the Hon'ble Mr. Rees has remarked, tantamount to asking the Council to vote against the Bill. The Bill would not be worth the paper it is printed on if this amendment were carried. It comes to the same thing as omitting the section for which this substitute is proposed. For the substituted section simply leaves things as they were before. That section is the pivot upon which the Bill hinges and is the operative part of it, and if it is omitted the Bill should be dropped."

The motion was put and negatived.

The Hon'ble MR. CHITNAVIS said that, as his first amendment was lost, he now asked leave to withdraw the second amendment which stood in his name, as it was only a consequential amendment.

The amendment was accordingly withdrawn.

The Hon'ble MR. REES said :—" My Lord, I have already said I approve the Bill as amended, and now I beg leave to move that in *illustration* (*b*) of clause 3 of the Bill the words ' an agriculturist ' be omitted.

" These words originally were found also in *illustration* (*c*) to clause 2, but were expunged in Select Committee.

" When His Honour the Lieutenant-Governor, then a member of Lord Elgin's Government, introduced this Bill, he expressly stated that in an amendment of the substantive law of contract the Government decided to seek a remedy for the indebted condition of the agricultural community, an ignorant peasantry, generally alleged to be at the mercy of the more astute money-lender in its monetary dealings ; and His Honour reviewed various other suggestions, which the Government determined to reject.

" Then the Hon'ble Legal Member of Your Excellency's Government, in moving this session for reference to a Select Committee, referred to one of these suggestions, *viz.*, the enactment of a general law framed on the lines of the Dekkhan Agriculturists' Relief Act, and I hope I rightly understood him to say that this suggestion had been abandoned. If it has proved a success in the Dekkhan,—and a study of the report of the Commissioners of 1891-92 leaves this in doubt,—it is not well adapted, so far as I can judge, for application to Southern India. And he went on to say that the provisions of the Contract Act of 1872 had been found wanting to meet the case of the agriculturist and the money-lender, that it was none the less proposed to make no new departure, but to arm the Courts with power in such cases to go behind the bond.

"The Hon'ble Member showed that much more drastic proposals were made by the recent money-lending Committee of the House of Commons, but he said that the Government of India recognized that the money-lender is the capitalist of Indian agriculture—an essential factor of a system the abuses and excesses of which alone the Government wished to curb.

"It was in this spirit that the Hon'ble Member met his Select Committee, and his readiness to accept suggestions based on experience of the country, and even as to drafting, a technical art of which he is an acknowledged master, has only increased the regret all additional Members feel—I am sure as I do—that they will so soon be deprived of his kindly and capable guidance.

"Yet looking to the origin of the Bill I must say that in my opinion the circumstances of the South Indian agriculturist are not such as to call for any amendment in his favour of the general Contract Law of the country. I speak for myself of course. The Government of Madras 'considered the proposed measure would effect a desirable improvement in the law relating to contract.' It suggested, however, the omission of the word 'agriculturist' from the illustrations, so as to remove all doubts as to the general application of the law; and the Officiating Chief Justice—Mr. Justice Shephard—from whom, and from Mr. Justice Subramanya Iyer, proceeded the suggestion which the Madras Government adopted, thought 'it a serious objection that the retention of the word suggested the idea that agriculturists as a class are to be regarded as privileged persons in their relations with money-lenders.'

"A law which is of general application may, however, need amendment, and the powers it confers on the Courts may call for extension, for express and explicit extension, in the general interests of the country, or of a greater or lesser part thereof, although in particular portions the exact conditions which suggested the amendment may not exist. It would be altogether wrong to stretch the all Indian raiyat on the bed of the Punjabi Procrustes, but the Madrassi raiyat in his turn should not grudge to others, perhaps less fortunately situaetd, a protection which he himself may not need. In fact, he will probably not be much affected by this Act, unless prophecies that it will increase the difficulty of borrowing come true, which I hope will not prove the case, though I entertain much apprehension on this score if the agriculturist of the illustration holds his ground.

"A long and elaborate argument to illustrate the position and circumstances of the South Indian agriculturist is not required from a Member who votes for the Bill, and only wishes to explain, when moving his amendment,

that he does not think that the Madras raiyat is one of those in whose interests it is required. But the question is one of such importance that I will ask Your Excellency's leave to refer to a few authorities on the position I take up.

"In 1872, when the Contract Act was before this Council, the then Lieutenant-Governor, Sir George Campbell, wished to introduce an illustration in which 'a rich and powerful zamindar' and 'his poor and ignorant raiyats' figured. Sir James Stephen strongly and successfully opposed the proposal, which was lost, though the Lieutenant-Governor, by way of compensation, obtained the excision of the illustrations from English practice which are now restored as (*a*) and (*b*) beneath clause 3 of this Bill. On that occasion my predecessor, Sir William Robinson, opposed the amendment with such warmth as called forth certain observations on the part of the Lieutenant-Governor, which are not reported, though Sir James Stephen refers to them, and may be presumed to have been by way of rebuke. In this respect I trust that history will not repeat itself, but Sir William Robinson's contentions are as true of the south of the Peninsula to-day as they were twenty-seven years ago, when he made them. 'In respect to Southern India,' he said, 'I have no hesitation in saying that there is no ground for apprehension or for exceptional legislation, and I know that the cultivators have, on the whole, a very fair time of it.'

"The Madras Government in its opinion of last year, to which I have just referred, deals only with the legal question. While its Board of Revenue approved, the judicial officers consulted gave guarded answers. Mr. Justice Subramanya Iyer, of the High Court, thought the amendments improvements, but pointed out 'that the condition of agriculturists in South India is not generally such as to warrant that class being treated as a privileged class entitled to special protection, and the illustrations which refer to them and imply that they are such a class are, therefore, out of place in a law applicable to all India.'

"But no authority stands higher on this subject than that of my Hon'ble friend and predecessor, Mr. Nicholson, who has devoted equal time and talent to the study of the condition of the agricultural classes. Circumstances only allow of passing reference to a report which is already a standard work in the hands of all interested in this subject. Mr. Nicholson urges that agricultural indebtedness in the South, while sufficiently serious, must not be exaggerated, the mass of raiyats not being deeply indebted, the mortgage-debt especially being moderate and not aggregating in any given year one-half of the value of the annual crops. Mr. Nicholson goes on to show that in addition to the value of soil, stock, crops and buildings, there are considerable hoards awaiting the development of a suitable banking system, and that great numbers of the cultivators are intelligent men.

In this I thoroughly agree, and would repudiate the assumption that the average cultivator is incapable of understanding a contract and forming a rational judgment as to its effect upon his interests. He understands very well what he is about in making engagements, and that he strives honourably to fulfil them is the opinion of those who best know him. He can no more be described as naturally feeble-minded than he can be called idle and wanting in energy, the description given in the report of the Dekkhan Agriculturist Commission. Indeed, experts from other countries have told me they believe no other man could make a living off the land the poorer raiyats till.

"Again and again Mr. Nicholson points out that nine loans out of ten in the South are made by raiyat to raiyat, by whom two-thirds of all the mortgage, and a slightly higher percentage of other, loans are granted; that to national and social and economic conditions, and not to the existence of the money-lender, is due the indebtedness of the raiyat; that the mortgage-rate of interest, as appeared from an examination of 76,000 loans, runs from 9 to 18 per cent.; and that it is certain from the tabulation of an immense number of cases that interest is fairly moderate where security is good, and that there is no gross usury such as that which came before the House of Commons Committee, on whose report, which dealt with cases quite dissimilar from those of this country, no action has, it is believed, been taken; that a gross agricultural debt of 45 crores against annual rural produce worth 60 crores is moderate compared with similar debts on the continent of Europe, as is a rural mortgage debt of 20 on land worth 220 crores; that peasants must borrow freely, annually and continuously; that three fourths of them are bound to borrow for cultivation purposes, and that the whole process is in fact the mere mobilization of capital; that the money-lender, usually a local raiyat, does not enter as a dominant factor into the daily life of the general population, as in the Dekkhan, and no doubt to some extent in the Dekkhan districts of the Madras Presidency.

"It will probably be considered unnecessary to quote more to this effect from the same source or from other authorities. It seems pretty clear that the condition of the Madras raiyat is not such as to warrant that class being treated as privileged and entitled to special protection, though Mr. Nicholson thought the Courts should have the power of adjusting contracts, where the lender possessed an undue advantage over the borrower.

"That this conclusion is, however, not sufficient ground for the rejection of this measure will be evident when the opinions of Local Governments are considered. It is approved generally by the Administrations of Bengal, North-West Provinces,

Burma, Bombay and the Central Provinces, though a by no means unanimous voice comes from the Courts, bodies and officers consulted by these Governments. The Administration of Assam condemns it; and in Bombay, while the Commissioner in Sind, lately a Member of this Council, is, as we all knew while he was here, a stalwart supporter of the measure and more than the measure, the Karachi Chamber of Commerce, the Judges and even the Sind raiyats—if their petition can be taken indeed as really representative—disapproved lock, stock and barrel of the Bill as a weapon of defence and protection for the agricultural community.

"These conflicting opinions—and any number might be instanced—only serve to indicate how widely opinions and circumstances vary, and how little the dictum of the learned High Court Judge in *Lalli v. Ram Prasad* can be accepted, to the effect that 'the conditions of peasant-proprietors are sufficiently homogeneous over all India to make the same treatment universally applicable.'

"Not the least remarkable fact is that a disapproval of the most important portion, the undue influence section, of the Bill, comes from the Government of the Punjab, which apparently for some years past has entertained apprehensions lest, as Sir Mackworth Young puts it, 'under the restrictions and disabilities which are accumulating against his interest, the position of the money-lender should become untenable.' The Lieutenant-Governor, and his predecessor Sir Dennis Fitzpatrick, agreed that even in the Punjab it would not do to assume that the money-lender was always the offender, and clause 2 of the Bill has now undergone in Select Committee the all-important change, that before the burden of proof is shifted in favour of the borrower, the contract must appear unconscionable on the face, or on the evidence.

"I think it is sufficiently established that in Southern India no such exceptional agricultural conditions exist such as call for a change in the general contract law, that opinions are widely divided as to the existence of such circumstances in other parts of India and as to the effect which will be produced by a change in the general law of contract admittedly made in favour of one, and that the agricultural, class, but equally affecting all classes.

"It is then evidently a matter of the first importance whether the agriculturist is retained in the illustrations, and as he disappeared in Select Committee from clause 2 (*c*) why is he retained in clause 3 (*b*), and will not the Courts, knowing the origin of the Bill, seeing the much modified, but still great, change in the law as regards the burden of proof, hold under the Act, with this illustration retained, that almost every money-lender is in a position to dominate his agricultural debtor, so that the lender will lose upon his bond, so that the partner with the capital

may become more difficult of access to the partner who is bound to borrow? Illustrations of course are not law. The Law Commissioners, when forwarding the draft Penal Code to the Governor General in Council in 1837, said—

'The definitions and enacting clauses contain the whole law. The illustrations make nothing law which would not be law without them. They only exhibit the law in full action, and show what its effects will be on the events in common life.'

"But in fact the Courts, particularly those belonging to what one may call the lower legal orders, cling to the illustrations, and feeling, as I have myself, what comfort resides in concrete cases, and believing that the lower Courts work the illustrations for all they can afford, it is with satisfaction I see that the Law Commission of 1863, consisting of the Master of the Rolls, Sir William Erle, Lord Sherbroke and other eminent lawyers, when presenting the draft of the Succession Act, made the following observations:—

'The decision contained in any illustration is not to be questioned in the administration of the law. The illustrations are not merely examples of the law in operation, but are the law itself, showing by examples what it is. The statements that the definitions and enacting clauses contain the whole law, and that illustrations make nothing law which would not be law without them, are correct if understood as merely importing that, in the view of the legislature, the illustrations determine nothing otherwise than what, without them, would have been determined by a right application of the rules to which they are annexed. As, however, much law has been made by judicial decisions, which determine questions respecting the application of written rules of law, so law may, without impropriety, be said to be made by the illustrations, in the numerous cases in which they determine points about which, without their guidance, there would be room for difference of opinion even among learned and able Judges.'

"In short, it is difficult to over-estimate the importance which attaches—which is by Indian Courts attached—to illustrations—Sir Griffith Evans has just owned that in clause 4 only the illustrations avail to introduce new law: it is as great at the present moment as when they were warmly debated in this Council Chamber, when the Act was passed which is now being amended. If the general law of contract is to be amended in the interest of the agriculturist—and it must be admitted that there is perhaps a preponderance of opinion in favour of such action—at least let him get the benefit without being so ear-marked in the illustrations as to prejudice his capitalist partner in agricultural operations—a partner indispensable, whether or not unreasonable, against whose interest or interests a powerful weapon is forged in the Bill by the wider definition of undue influence and by the shifting of the burden of proof. If other illustrations referred to soldiers, sailors or persons following other callings, the reference to the

agriculturist would be less marked, but no one is likely to dispute the fact that especial significance attaches to his retention in this illustration, and the only question is whether or not he should be retained. I hope he will be cut out in what I believe to be his true interests, and in consideration of the fact that the Bill, when it becomes law, will become law for all parts of India, and for all classes in the Empire."

The Hon'ble MR. CHALMERS said:—"This point which is raised by my Hon'ble friend Mr. Rees was considered in Committee, and the Committee came to the conclusion that on the whole it would be better to keep this illustration as it stood. There is no question that in the greater part of India contracts which are unconscionable and contracts for which we wish to provide do arise between money-lenders and agriculturists, and therefore the illustration points to that fact. It is a fact which we cannot deny. We do wish the Courts to set aside unconscionable bargains between ignorant agriculturists and those money-lenders who are unscrupulous. In a Madras Act we should not perhaps put in that illustration, but as we are now legislating for the whole of India we cannot say that this legislation should not apply to Madras, nor can we say that it applies to a class of agriculturist who does not reside in Madras, and I think on the whole that the Committee were right in deciding that this illustration should stand as originally framed."

The Hon'ble MR. SPENCE said:—"I wish to say a few words in support of the motion that has been made by my Hon'ble friend Mr. Rees. I acknowledge that this point was debated in the Select Committee and we came to the conclusion that the words 'an agriculturist' should be left in this amendment, but I think that it was more as a matter of indifference as no principle was involved. This legislation is not meant to cover any particular class. It is not to apply to the agriculturist alone but to all classes, and the point that has not been noticed appears to me to be that if you put in this illustration there is no doubt that the Courts will act on it as if it were a sort of declared law. Therefore they will protect the agriculturist, but in the case of an artisan or of persons who belong to another class they will not be inclined to interfere. An artisan has just as much right to be protected against an unconscionable contract as an agriculturist. If you mention the word 'agriculturist' the Courts will at once protect him and not men of other classes. As no principle was involved in the illustration I assented to it in the Select Committee, but I have been induced by the arguments which have been brought forward by Mr. Rees to vote in favour of the amendment, and I hope the words 'an agriculturist' will be cut out."

The Hon'ble MR MEHTA said:—"My Lord, I am not in favour of this amendment. The use of the word 'agriculturist' was open to misconstruction in any illustration to the proposed new section 16. The Select Committee therefore unanimously agreed to omit it from illustration (*c*) to that section. But the case is quite different as regards the illustration from which my Hon'ble friend Mr. Rees now proposes to discard it. I think he has not quite kept in mind the purport of the section to which the illustration in question is appended, and has forgotten that that section dealt with cases in which the fact of undue influence was already established. The illustration itself says that the bond is obtained by undue influence. The Madras agriculturist seems to be a very different person from an agriculturist in other parts of India, but surely my Hon'ble friend does not mean to say that if a contract is obtained by undue influence from a Madras agriculturist, he is not entitled to the protection of the Act like any other person from whom a contract is obtained by undue influence. He may be a very flourishing gentleman as my Hon'ble friend says, but under those circumstances he requires protection just as much as his less fortunate brethren elsewhere. It must be remembered that an illustration is something more than the enumeration of a general principle. The section lays down the general law; the illustration clothes the skeleton with flesh and blood. I quite admit that the illustration might have taken an artisan for an example. But as a large body in which cases of undue influence may not be infrequent, an agriculturist was equally, if not more, appropriate. I confess I am for retaining the word in this illustration just as I was in favour of omitting it in the section defining undue influence."

The Hon'ble MR. LATOUCHE:—"As far as any principle is concerned I am in favour of the amendment, but I do not think it goes far enough. If the words 'an agriculturist' are omitted, the words 'a money-lender' should also be expunged. The illustration would then read as follows:—

'(*b*) A advances Rs. 100 to B, and, by undue influence, induces B to execute a bond for Rs. 200 with interest at 12 per cent. per month. The Court may set the bond aside, ordering B to repay the Rs. 100 with such interest as may seem just.'

"We are not here concerned with an illustration of the classes who are apt to exercise, or liable to be subjected to, undue influence. It is immaterial whether A is a professional money-lender or not. In the case supposed undue influence has been proved, and the illustration is concerned with indicating what the Court will do under section 19A, and how it will exercise an equitable discretion in relieving from the contract the person who has been subjected to undue influence."

The Hon'ble SIR GRIFFITH EVANS said :—"The speech made by my Hon'ble friend Mr. Rees is the strongest indication of what I said when we were considering the Bill, that it would have been better to have passed separate Bills for the different Provinces so far as the raiyats were concerned. The Hon'ble Mr. Rivaz said he had no doubt that the Bill would be useful to the raiyats His Honour the Lieutenant-Governor, when originally introducing the Bill, said it was necessitated on account of the difficulties in connection with agricultural indebtedness, and so too it appears by the speech of my Hon'ble friend Mr. Chalmers that that was what was mainly aimed at Now we find that Madras is a blessed Arcadia where all peasants are prosperous and all money-lenders merciful My Hon'ble friend is alarmed at the very idea of its being supposed that a Madras raiyat could ever want protection from the clutches of a money-lender I do not feel that same terror of having the name 'agriculturist' mentioned in the Bill, because if they are intended to be relieved it cannot be any great harm to mention them.

"All those who have discussed this illustration have forgotten apparently that the section which it illustrates deals not with the question when relief should be given but how it is to be given The section runs thus—

'19A. Where a contract is induced by undue influence, it may be set aside either absolutely or upon such terms and conditions as to the Court may seem just.'

"The illustration is—

'(b) A, a money-lender, advances Rs 100 to B, an agriculturist, and by undue influence induces B to execute a bond for Rs. 200 with interest at 12 per cent. per month. The Court may set the bond aside, but may order B to repay the Rs. 100 with such interest as may seem just.'

"Now in this case it is found positively under the previous section that undue influence has been used, and therefore as a matter of fact the word 'agriculturist' and the word 'money-lender' could both come out. They are not essential to the section, but it was thought that inasmuch as this Act was intended to benefit the agriculturist we might mention him as being one of the persons who might possibly receive benefit under this Act. As was pointed out by the Hon'ble Mr. Mehta, whether the person who received the money was an agriculturist or not, still if undue influence was proved this result would follow, but it was thought that as there was no mention of agriculturist anywhere else in the Act, we might put him in, and thus indicate that he might obtain relief even though he lived in Madras. It merely says if an agriculturist has been induced by undue influence to do a certain thing, then relief should be given him in a certain way."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU :—"It has been pointed out, and rightly pointed out, that the section 19A relates not to the *persons* to whom relief is meant, but to the *methods of relief* intended to be provided. That being so, why retain the word 'agriculturist' in the illustration? Judicially viewed, there will be little room for mistakes. But let us remember that a large number of these cases will be brought in the Small Cause Courts, and that it is the inevitable practice of these Courts to gallop through the case with a rapidity which forbids much judicial care. There will thus be a great risk of people fancying to read between the lines and act as though the agriculturist has been specialised for relief above everybody else. If the remarks made to-day by certain of the members are read, the chances of such an error will be greatly enhanced, inasmuch as it is emphasised that, although special legislation or rather legislation for a special class is not *professed*, yet such is the intention to some extent. It is very undesirable that this sort of notion should get hold of the lower grades of judiciary and lead to results which are ostensibly disclaimed as intended. This risk of widespread error should be avoided, and it can only be done by adopting the amendment of my Hon'ble friend Mr Rees."

The Hon'ble MR. RIVAZ :—"As the Hon'ble Mr. Chalmers has said, we carefully considered this point in Select Committee, and we decided to retain this word in this illustration, while we excised it from the illustration in the preceding section. I do not think it is a matter of great importance whether it is kept in or not; but I am of opinion that, for the reasons my Hon'ble friend Sir Griffith Evans has given, it is desirable to keep it in."

The Hon'ble SIR ARTHUR TREVOR :—"The reasons which my Hon'ble friend Sir Griffith Evans has given seem to me to tell as much in favour of striking out the word 'agriculturist' as of keeping it in. I am disposed to agree with the Hon'ble Mr LaTouche that both 'a money-lender' and 'an agriculturist' should be omitted. They seem to add nothing to the meaning of that illustration and *might* mislead."

The Hon'ble SIR JAMES WESTLAND :—"I cannot see why the difference lies between putting in and leaving out the word 'agriculturist.' The illustration has the same effect either way. It does not mean to cover the whole of the cases that may arise under the law. It is merely a case that may arise. I remember, for example, an illustration given in the Penal Code regarding the manner in which homicide may take place without an offence occurring. It describes an individual engaged in the commonplace operation of cutting a log with an axe. The

head of the axe flies off and it injures some person to his death, and it is declared under these circumstances that the homicide is not culpable homicide It seems to me quite impossible for any person engaged in a trial for homicide to argue that the person who committed the act was not cutting wood, and therefore the illustration cannot apply to him, or to allege that because the instrument which in the particular case under consideration was not an axe, therefore the homicide must be a culpable one. You must in the case of an illustration state your facts, and the act of stating particular facts in the illustration does not exclude other similar facts from the application of the section. So in this case when you state that the individual concerned is an agriculturist, he is only taken as one particular individual to whom the facts may apply, and I cannot see where the harm is in leaving him in. The Courts sometimes do foolish things, but I cannot imagine any Court, such as my Hon'ble friend Mr. Charlu refers to, finding that under the circumstances stated in illustration (*b*) no person but an agriculturist could receive the benefit of the section.

"It seems to me that the most natural thing for a Court to say is, that the fact of a person being an agriculturist was not in the least degree essential to the application of the law. The illustration indicates a state of things to which the law may apply, whether a person is an agriculturist or not. It seems to me perfectly indifferent whether the word remains in or out of it, and Iam disposed, therefore, to accept the decision of the Select Committee that it should remain in."

The Hon'ble MR. CHALMERS :—"May I with Your Excellency's permission add one word of explanation. I forgot when speaking that Hon'ble Members of Council generally were not present in the Select Committee. I ought to have reminded them of the particular point which we were discussing in Select Committee when this question came up. We were discussing the question of the remedy when a contract has undoubtedly been obtained by undue influence As the law stands at present, when a contract is obtained by undue influence, it stands on the same footing as a contract obtained by fraud; that is to say, the Court sets it aside absolutely. We were discussing the point that you ought to draw a distinction between a contract obtained by fraud which is set aside absolutely and a contract obtained by undue influence, which in many cases should only be set aside on terms.

"The case of the agriculturist perhaps illustrates that better than any other, and for this reason—it is essential that the agriculturist should have advances. He has to go to the money-lender, and it is essential that, if the contract is a fair and reasonable one, he should keep his contract and repay his advances. But

suppose the contract is an unconscionable one: suppose that the agriculturist requires an advance to cultivate his crops and gets one, but that it is advanced on unconscionable terms? Then what I want to point out is this. The contract is not set aside absolutely, but the Court has to reform it; the Court has to set aside the unconscionable part of the bargain, but we wish to point out that an agriculturist who has received the benefit of the contract and has received his money must repay that money and with a reasonable interest. We thought the illustration was apt in the case of an agriculturist because otherwise money-lenders might be afraid of advancing to the agriculturist. It is important to point out that even if you come to the conclusion that the contract is unconscionable, still the agriculturist who has entered into an unfair bargain won't be allowed simply to go away with the other man's money in his pocket, but that he will have to do justice himself; otherwise there might be a difficulty in agricultural tenants getting loans from money-lenders, and it was particularly to guard against that that we kept the words 'an agriculturist' in this section. The section does not deal with what is undue influence and what is not undue influence, but with what is to be done by the Court in order to work out complete justice between the parties when an unconscionable bargain comes before it and has to be reformed. I ought to have explained that before."

The Council divided:—

Ayes—7.

The Hon'ble Mr. Rees.
The Hon'ble Mr. Toynbee.
The Hon'ble Mr. Spence.
The Hon'ble Nawab Faiyaz Ali Khan.
The Hon'ble Mr. Chitnavis.
The Hon'ble Mr. LaTouche.
The Hon'ble Rai Bahadur P. Ananda Charlu.

Noes—13.

The Hon'ble Maharaja Bahadur of Darbhanga.
The Hon'ble Mr. Smeaton.
The Hon'ble Mr. Mehta.
The Hon'ble Mr. Allan Arthur.
The Hon'ble Pandit Suraj Kaul.
The Hon'ble Sir Griffith Evans.
The Hon'ble Mr. Rivaz.
The Hon'ble Sir Arthur Trevor.
The Hon'ble Major-General Sir Edwin Collen.
The Hon'ble Mr. Chalmers.
The Hon'ble Sir James Westland.
His Excellency the Commander-in-Chief.
His Honour the Lieutenant-Governor.

So the motion was negatived.

His Honour the LIEUTENANT-GOVERNOR moved that in illustration (*b*) to the new section 19A proposed by clause 3 of the Bill, as amended by the Select Committee, for the figure "12" the figure "6" be substituted. He said:—"I was myself a party at an earlier stage of this measure to the illustration introduced in its present form, but on further consideration I should have moved, had I been in the Select Committee, the amendment which stands to-day in my name. My reasons are these: the illustration means, in shorter language, that a contract to pay interest at a rate of 288 per cent. per annum executed under undue influence is an unconscionable contract which the Courts may call upon a creditor to justify. That such a contract is unconscionable nobody will dispute, but I think it is not necessary for the assistance of the Courts to give them so obvious an example of outrageous and unconscionable contracts. The illustration is intended to be from its etymology a light in darkness or a guide in circumstances of some doubt and difficulty. When a traveller, for example, enters Italy, he may, if he is not very wide awake, be in some doubt when he reaches Turin whether he has crossed the frontier or not, but there is no such excuse for him at Naples; and similarly I think the illustration to be effective and useful in the elucidation of the business of the Courts ought to be more on the border-land of actual facts. We have all of us heard of the rapacity and extortion of the money-lenders—in some cases at all events—among the ignorant and timid rustics. I have not myself come across any such violent examples of these transactions as is embodied in this illustration, and I think it would suffice for our purpose, and more than that it will be better for our purpose, to substitute in this illustration the figure 6 for the figure 12. That will result in giving an illustration of a contract at the unconscionable rate of 144 per cent. per annum. I am glad to say that cases in which the rate is so excessive and extortionate are rare in my own experience of money-lenders in India, but such cases have occurred, and I think it would be for the assistance and benefit of the Courts if we were to give them an indication of those more common cases in which a contract is on the face of it unconscionable. For these reasons I beg to move the amendment which stands in my name."

The Hon'ble MR. CHALMERS:—"I accept His Honour the Lieutenant-Governor's suggestion. Perhaps the illustration we gave was too exaggerated an illustration, but of course I must point out that we are not laying down in this section what constitutes an unconscionable bargain, but what the Court has got to do when an unconscionable bargain comes before it. This illustration assumes an unconscionable bargain and then deals with what the Court has to do in administering justice between the parties; but I quite agree that we may give

a less exaggerated illustration than we have given, and I am glad to hear from the Lieutenant-Governor that such extreme cases are almost unknown in India. I have had hundreds of worse cases myself at home. I have had to deal with scores or hundreds of cases where the interest charged had ranged from 200 to 1,200 per cent., and I am glad to hear that Indian money-lenders are more moderate than English money-lenders."

The Hon'ble Mr. REES said:—"My Lord, I understand the unconscionable portion of the bargain in the illustration to be not the bond for Rs. 200 in return for an advance of Rs. 100, but the interest at 12 per cent. per mensem. It is to that point at any rate that His Honour has addressed himself, and on that point alone that he has proposed an amendment. I venture to think that rate preferable to 6 per cent. per mensem, just because it is so unconscionable as to be unmistakeably such as may be relieved against, beyond the possibility of being taken as a point around about which interest ceases to be unconscionable and begins to be reasonable No Court would see a lead on this behalf in a case of 144 per cent. interest. But 6 per cent. per mensem is so much nearer the point at which interest has been allowed by the Courts, that, if it stands, it seems possible some Courts may hold 5 per cent. not unconscionable, and thus the illustration, which is intended to prevent such a result, might conceivably lead to decisions that 50 per cent., the rate against which English Courts relieved in the well known cases of *Aylesford v. Morris* and *Benyon v Cook*, was not an unconscionable rate."

The Hon'ble MR. SMEATON:—"I would support the amendment of His Honour the Lieutenant-Governor I differ from the view of the Hon'ble Member who has just spoken in regard to the effect of the illustration on the minds of that large body of subordinate Judges who will have to administer the new law. These Judges are apt to look upon a rate of interest quoted in an illustration as the *minimum* rate which should be held to be unconscionable: and some of them might possibly think themselves bound to consider 11 per cent. per month justified by the illustration The reduction of the rate in the illustration from 12 to 6 per cent will at least prevent the subordinate Courts from falling into this serious error; and I think therefore that the Lieutenant-Governor's amendment is most necessary."

The Hon'ble MR. MEHTA said:—"What has fallen from the Hon'ble Mr. Rees convinces me that His Honour's amendment is a very useful and necessary one. Mr Rees admits that interest at the rate of 144 per cent. on double the amount lent is undoubtedly unconscionable. But he seems to hesitate whether

72 per cent. per annum on double the amount is so or not. I feel no hesitation in thinking that it is most unconscionable. It is safer, therefore, as His Honour has well pointed out, to avoid putting too extreme a case of unconscionableness."

The Hon'ble SIR GRIFFITH EVANS:—"It matters very little whether the alteration is made or not seeing that the principal is only Rs. 100 and the bond for double that amount: the 6 per cent. on that Rs. 200 would be not 72 per cent. but 144 per cent. on the money actually got, and we must all admit that that is certainly an unconscionable bargain. But it must be remembered, as I have before pointed out, that the object of the illustration is not to show when relief should be given, but how it is to be given."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU:—"I strongly support the amendment of His Honour the Lieutenant-Governor. My reasons are precisely those which I urged in support of the amendment of my Hon'ble friend Mr. Rees to delete the word 'agriculturist.' Though those reasons failed on that occasion, I trust they will now carry weight."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that the following illustration be added after *illustration* (*f*) to section 74 as proposed by clause 4 (*2*) of the Bill, as amended, namely:—

"(*g*) A borrows Rs. 100 from B and gives him a bond for Rs. 200 payable by five yearly instalments of Rs. 40, with a stipulation that in default of payment of any instalment the whole shall become due. This is a stipulation by way of penalty."

He said:—"I propose the insertion of a new illustration to section 74. The object is to illustrate what is a penalty. There is an illustration showing that a stipulation that in default of payment of any instalment of a loan the whole amount shall become due is not a penalty. I now propose an illustration to show that a stipulation similar in form may be treated as a penalty under certain circumstances. The instance I have given is one where a loan of Rs. 100 at 20 per cent. for five years repayable in yearly instalments contains a stipulation that on one default not only the original principal but the whole five years' interest shall become due. This, though in form it is a part of the contract, ought from its character to be treated as a penalty. It appeared by the opinions we received that it was feared the first illustration would be extended to a case of this kind unless or expressly provided for."

The Hon'ble MR. CHALMERS:—"I accept my Hon'ble friend's amendment. In Committee we considered this point and found a difficulty in framing an apt illustration."

The Hon'ble PANDIT SURAJ KAUL said:—"My Lord, I quite agree with the report of the Select Committee on the Indian Contract Act (1872) Amendment Bill, which was presented after the Bill had been fully considered in all its bearings. But, my Lord, I am also in favour of the Hon'ble Sir Griffith Evans' motion regarding the addition of a new *illustration* (*g*) after *illustration (f)* to section 74 proposed by clause 4 of the Bill as amended. The proposed *illustration* (*g*) is, beyond doubt, a stipulation by way of penalty. I had, indeed, brought forward the same proposal before the Select Committee, and was told that it would be taken into consideration, if possible. I am glad that the Hon'ble Member, also a Member of the Select Committee, has taken the matter into his own hands, and his proposal, in my opinion, is worthy of adoption by Your Excellency's Council. If an illustration like this be not introduced in the Bill as amended, there is much reason to fear that the protection afforded to agriculturists, etc., under section 19A, *illustration* (*b*), in order to guard them against transactions involving penalty, will lose its effect; because clever money-lenders will endeavour to avoid that protection by making their contracts payable by instalments. The underlying principle of the Bill is to protect agriculturists, etc., from the enforcement of contracts entailing penalty, and therefore, my Lord, with these few words I beg to support the Hon'ble Sir Griffith Evans' motion."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU:—"I would strongly support this amendment."

The motion was put and agreed to.

The Hon'ble MR. CHALMERS moved that the Bill, as now amended, be passed.

The motion was put and agreed to.

INLAND STEAM-VESSELS ACT (1884) AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to further amend the Inland Steam-vessels Act, 1884, be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that the Bill, as amended, be passed.

The motion was put and agreed to.

ARBITRATION BILL.

The Hon'ble MR. CHALMERS presented the Report of the Select Committee on the Bill to amend the law relating to Arbitration. He said that he would have to move that the Bill be taken into consideration on that day fortnight.

CARRIERS BILL.

The Hon'ble MR. CHALMERS presented the Report of the Select Committee on the Bill to amend the law relating to Carriers. He intimated that this Bill would also be taken into consideration on that day fortnight.

PETROLEUM BILL.

The Hon'ble MR. RIVAZ moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances be taken into consideration. He said:—"The Bill, as I said in introducing it, is, in the main, a consolidating enactment, but opportunity has been taken to alter the present Petroleum Act on two or three points: the most important provision is that power is taken to extend the present Act to illuminant or inflammatory substances, other than petroleum, as for instance carbide of calcium. The Select Committee have not proposed to make any alterations in the Bill as introduced."

The Hon'ble MR. SMEATON said:—"My Lord, as a member of the Select Committee, I desire, with Your Excellency's permission, to make an explanation, with a reservation, in regard to this Bill. With the exception of the one important amendment, bringing other inflammable substances under the operation of the law, and widening the power of testing, the Bill now before the Council is practically a reproduction of the Act of 1886. That Act was intended primarily, if not entirely, to refer to imported petroleum. In 1886, there was very little petroleum produced in India, and the Act sufficiently met the requirements of the time. Upper Burma had just been annexed, its mineral oil-fields were but little known, and the very disturbed condition of the province, to my personal knowledge, prevented any important development of the industry for three or four years. In 1890-91, however, oil-winning in Upper Burma commenced in earnest

with the establishment of law and order, and Burma is now a large producer and exporter, as well as importer, of petroleum. It would not, therefore, be surprising, my Lord, if, under the very materially altered conditions of 1898, compared with 1886, the Act, which has been reproduced in the Bill now before the Council, should be found to be in some respects obsolete and inadequate. In Select Committee I indicated some of the points on which the law appears to be defective, but as the real object of the Bill is to bring under regulation other inflammable substances, and as this object is important, I refrained from proposing any amendments, because these would have necessitated references to Local Governments, and would have postponed the passage of the Bill into law for at least a year. Representations since received from Burma have confirmed the opinions I expressed in Select Committee, and suggestions have been made for certain reforms in the law, to meet the requirements of a large producing and exporting Province. When I mention, my Lord, that the capital invested in the Burma petroleum industry amounts to over one hundred lakhs of rupees, or rather more than three-quarters of a million sterling, that the output of oil last year was 19 million gallons, or nearly a hundred times more than the production of the whole of the rest of India, and bulked a good deal more than half of the total quantity of oil brought into the interior of India, when I add, that the refined oil is exported in hundreds of thousands of gallons to the Indian ports, and that ten to twenty thousand tons of useful bye-products are annually exported to the United Kingdom; and when I point out that the revenue of the State, from the royalty alone, amounts to over two and a half lakhs of rupees, against only Rs. 6,000 from the whole of the rest of India; when, my Lord, I mention all these facts, I think I may respectfully urge that any representations from Burma are entitled, at least, to very careful consideration. There are two points in particular, on which skilled local opinion suggests that the law is susceptible of improvement in the interest of the Burma producer.

"I invite Your Excellency's attention to sections 2 and 3 of the Bill. These sections define and deal with import and transport of petroleum. To import means to bring into British India, by sea or land, presumably from some place outside British India. To transport means to remove from one place in British India to another place in British India; therefore, petroleum sent from Rangoon to an Indian port, say Madras, is transported. Section 9 of the Bill (which is identical with the existing law) empowers Local Governments to make rules for sampling and testing imported petroleum, and for the levy of fees for such testing. Sub-section (2) (*b*) of clause 3 authorizes Local Governments, with the previous sanction of the Governor General in Council, to declare that petroleum transported

into their territories from any place in British India shall be deemed to be imported. I am informed (but I have been unable to verify this from official sources) that certain Local Governments on the Indian seaboard have acted on this authority, and have declared that petroleum transported from Burma into their territories shall be deemed to be imported; and that, at any rate, Burma petroleum is so treated at all Indian ports. The consequence is that the Burma oil is doubly, sometimes trebly, burdened. It is periodically tested by the Chemical Examiner in Burma; when a shipment is to be made it is again sampled, tested, and a fee charged; and notwithstanding this, when the oil arrives at the Indian port, it is again tested and again charged with a fee. The Burma producer thus finds his oil delayed in transit, and taxed at least twice. He urges—and I submit, my Lord, with some show of reason—that the law should not put it in the power of any Local Government or local authority, even with the sanction of the Governor General in Council, to impede the trade in Burma petroleum and weight it with what amounts to an import-tax. As Your Excellency is well aware, petroleum, from the enormous supply thrown on the market, is cheap, and cannot bear much handling or many charges. The Burma producer claims that the inspection and testing made in Burma should be sufficient warranty for the free entry of his oil into any Indian port. Your Excellency is aware that rice, the principal staple of Burma, is subject to an export-duty if exported to a foreign port; it seems unfortunate that petroleum, which promises to be the next important staple product, should be hampered by fees on entry into an Indian port. I do not say that there may not perhaps be reasons for the exercise, by Local Governments or local authorities, of the power vested in them by section 3, but I cannot help thinking that a good case may be made out for at least an examination of the law, to see if the impediments which I have just described may not reasonably be removed.

"The next matter, my Lord, to which I invite the attention of the Council is, sections 5, 6 and 7 of the Bill, which are identical with the existing law. In respect of dangerous petroleum stringent restrictions are wisely imposed upon its possession and transport, but these sections were obviously designed to affect only the imported article, and are quite unsuitable in respect of petroleum locally produced. You cannot reasonably compel a man, who is winning oil under a lease granted by Government, to take out a license with heavy fees attached for the possession of dangerous petroleum which is daily pumped up in hundreds of gallons from the bowels of the earth; and yet these oil-winners are technically liable to penalties under the Act. Oil-winning in Upper Burma is carried on under leases, and royalty is charged at 2½ pies per gallon at the

mouth of the well, irrespective of the character of the oil. In one of the oil-fields 25 per cent. of all petroleum pumped up is a light spirit, called naphtha, with a low flashing point, and is, under the law, dangerous. This has to be immediately destroyed, because possession or transport of it is forbidden except under a license with prohibitive fees. So that the Burma producer not only pays royalty on one-fourth part of his output which he has to destroy, but he loses the naphtha, which under different conditions of possession and transport, he could sell locally, or export with profit.

"In regard to refineries legislation may very probably be required Native refineries are springing up under the stimulus of the low price at which crude oil can now be obtained. These refineries are likely to increase in number, and they are believed to be a source of danger. Their structure and skilled supervision will require attention. It is possible also that transport of petroleum over long distances in pipes may require regulation.

"I have made these remarks and suggestions, my Lord, chiefly in order to guard against the impression that in signing the report of the Select Committee I subscribe to the belief that the present Bill adequately deals with the matter in hand; and in the hope that the Bill may be passed without prejudice to any reasonable claim for reform of the law which may hereafter be made by the Burma producer."

The Hon'ble MR. RIVAZ said :—"I need only explain very briefly, with reference to what my Hon'ble friend Mr. Smeaton has said, that the object has been to make this almost entirely a consolidating Act, and, on this account, any opinions on, or any general alterations in, the Bill have not been invited, and have not been considered. As regards the first point discussed by my Hon'ble friend Mr. Smeaton, and which he mentioned to us in Select Committee, I think it will be found that the Act, as it stands, is sufficient, and that if petroleum, which is transported from Burma into India by sea, is treated as imported petroleum and is subject, as such, to any undue restrictions, the Government has power, by the Act as it stands, to remove such restrictions and to treat such petroleum as transported and not imported.

"The other points which have been discussed by the Hon'ble Mr. Smeaton are absolutely new to me, and I had not heard of them before If the Burma traders in petroleum have any general representations to make regarding the inadequacy of the present Act, I have no doubt that they will be forwarded in due course to the Government of India by the Burma Government and will be carefully considered."

The Hon'ble SIR JAMES WESTLAND said:—"I was not a member of the Select Committee on this Bill, and the points brought forward by my Hon'ble friend Mr. Smeaton are entirely new to me. Of course, I am aware that petroleum is produced in large quantities in Burma, and I observed that my Hon'ble friend Mr. Smeaton fixed me with his eagle eye when he talked of the fees charged in respect to that petroleum. I plead not guilty, my Lord. I have nothing whatever to do with them; I am not responsible for the fixing of royalties and fees. But there is one consideration with which I have great sympathy, and that is that, at the present moment, we are running great risk of permitting one Province to tax the products of another Province. These are questions which will no doubt in due course receive the attention of the Government, and I think my Hon'ble friend Mr. Smeaton makes a reasonable claim in stating that we ought to take care that the petroleum industry be not hampered and the petroleum exported from Burma shall not be subjected to any special tax in other parts of British India. I think that there is so much in the statement made by my Hon'ble friend Mr. Smeaton that deserves attention before the Legislature proceeds further with this Bill, that I would suggest to Your Excellency that when we come to consider the motion that the Bill, as amended, be passed, it may be adjourned for a short time so as to enable us to take up the points suggested by Mr. Smeaton, so that the Bill may come before the Legislative Council as one which the Government of India can recommend to be passed."

The motion was put and agreed to

The Hon'ble MR. TOYNBEE moved that in clause 2 (*2*) (*h*) of the Bill, for the words "a body of port commissioners or other like body" the words "any local authority" be substituted. He said:—"Your Excellency, my object in moving the two amendments which stand in my name is to make it quite clear that clauses 9 (*2*) (*h*) and 23 of the Bill extend both to Municipalities and also to other local authorities such as Port Commissioners. It is, I think, doubtful if the words 'a body of Port Commissioners or other like body' used in clause 9 (*2*) (*h*) of the Bill could be construed as including a Municipality. If they cannot, then Municipalities are placed in a worse position than Port Commissioners or bodies like them. It seems advisable therefore that the term 'local authority' as defined in section 3, sub-section (*28*), of the General Clauses Act, X of 1897, should be used in both the above clauses. The definition of 'local authority' in the General Clauses Act runs thus:

(28) "local authority" shall mean a Municipal Committee, District Board, body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund.'

"It is thus comprehensive enough to include all local bodies whatsoever. The Port Commissioners of Calcutta levy fees on the storage of petroleum in their Budge Budge warehouses under section 103 of the Calcutta Port Act, III (B. C.) of 1890; and the mufassal Municipalities in Bengal levy fees for its storage as a dangerous trade, under section 261, Act III (B.C.) of 1884 [as amended by Act I (B.C.) of 1893]. Assuming that the intention of the Government of India in enacting clause 23 of the Bill (which is reproduced word for word from section 24 of Act XII of 1886) is to reserve to itself, for financial or other reasons, the power to limit, or put a stop to, the levy, by any local authority, of fees for storing petroleum, then clause 23 of the Bill should be so worded as not to be open to misconstruction. If, however, clause 23 of the Bill be intended to apply *only to Municipalities* and clause 9 (2) (*h*) *only to bodies like Port Commissioners, i.e.*, bodies dealing, as I read the words, only with a port, then the proposed amendments are unnecessary."

The Honb'le MR. RIVAZ said:—"The words which my Hon'ble friend wishes to alter were part of the Act of 1886, and as they have stood since without any objection being made to them, the Select Committee did not consider the point. We had not my Hon'ble friend's assistance on the Committee, but I see no objection to the wording being altered, and I am willing to accept the amendment."

The motion was put and agreed to.

The Hon'ble MR. TOYNBEE also moved that in clause 23 of the Bill, for the word "municipalities" the words "local authorities", and for the word "municipality" the words "local authority", be substituted.

The Hon'ble MR. RIVAZ:—"I am willing to accept this amendment also. I understand that it will chiefly affect the Port Commissioners of Calcutta, of whom my Hon'ble friend is the Chairman, and he is the best authority on the point."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that to the first schedule to the Bill, before the Table for correction of Flashing Points the following be added, namely:—

"*IV.—Directions for determining the flashing point of petroleum which is not fluid at ordinary temperatures.*

1. *Nature of the test-apparatus.*—The instrument employed is the Abel-Pensky petroleum-testing apparatus, fitted with an additional thermometer to indicate the

temperature of the oil in close proximity to the walls of the cup. This thermometer has a cylindrical bulb, $\frac{1}{8}$ inch in length and $\frac{3}{16}$ inch in diameter. It is scaled from 45° to 165° Fahrenheit, ten degrees on the scale occupying $\frac{3}{8}$ inch. The thermometer is held vertically in a socket attached to the cover of the oil-cup in such a position that the bulb is $\frac{1}{10}$ inch from the side of the cup.

(The thermometer can be removed and the orifice which is provided for it closed by means of an india-rubber plug, if the apparatus is required for testing petroleum in the ordinary way.)

2. *Directions for preparing the sample for testing.*—About ten fluid ounces of the oil are placed in a pint flask, the mouth of which is then closed with an india-rubber stopper, and the sample is liquefied by placing the flask in a water-bath, the temperature of which is only raised sufficiently high to liquefy the oil.

3. *Directions for preparing and using the test-apparatus.*—The water-bath and test-lamp are to be prepared in the manner prescribed in Part III of this schedule. The oil-cup is to be filled with the liquefied oil, and the cover (into which both thermometers are to be previously inserted) placed on it, care being taken that the bulb of the additional thermometer is not brought into contact with the bracket gauge fixed inside the cup. The oil-cup is then to be placed in a refrigerator, or plunged up to the projecting collar in water maintained at sufficiently low temperature until both thermometers indicate the temperature at which the testing of petroleum is directed in Part III of this schedule to be commenced. The oil-cup is then to be removed, wiped dry and placed in the water-bath, and the testing effected in the manner prescribed in Part III of this schedule, the temperature indicated by the additional (vertical) thermometer alone being noted, and the average of three determinations, duly corrected for atmospheric pressure, being recorded as the flashing point of the sample, provided that no greater difference than 4° Fahrenheit exists between any two of such results."

He said:—"These directions have been issued since the Bill was drafted, and as we wish to make the new Act complete, up to date, it is desirable to add them to the schedule."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill, as amended, be passed. He said:—"With reference to what my Hon'ble friend Sir James Westland just now said, I think it is desirable that the Bill should be passed. It is intended to be mainly a consolidating measure, but there is one alteration in it, namely, the enabling power to extend the provisions of the Bill to other substances than petroleum and its liquid compounds. As regards the taxation on imported petroleum from Burma to any other part of India, I think that that can be dealt

with under the present Act, which, if I recollect right, provides for this. It says in the Bill that—

'Notwithstanding anything in the definitions of 'import' and 'transport,' the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, declare—

(*a*) that petroleum imported into the Province from any part of British India by sea or across intervening territory not being part of British India shall, for all or any of the purposes of this Act, be deemed to be transported.'

"I think that will meet the point which has been raised. It is only a question of treating certain petroleum as transported instead of treating it as imported. It is perfectly clear that any Local Government may so deal with it."

The Hon'ble MR SMEATON :—"It is the *power* to impose taxation on local products passing between two Provinces in British India that is objectionable."

The Hon'ble MR RIVAZ :—"I should think if there was any dispute between two Local Governments, the Government of India might be left to deal with the matter fairly."

The Hon'ble MR. CHALMERS :—"May I point out about this Bill this much, that it is a Bill intended to consolidate and amend the law relating to petroleum and other illuminants. That law has already been amended several times We wanted on this occasion to make one specific amendment, namely, to deal with the case of acetylene, and to provide for other substances which may hereafter be invented and which at present are not provided for. When we were applying the law to a new substance, namely, acetylene, we took the opportunity to consolidate the old Acts, because at present the law is contained in several different enactments. The provisions complained of by Mr. Smeaton have been in force for many years, and we have never heard a suggestion from Burma that the existing law was inconvenient or required changing. We hear it now for the first time. A consolidation of the Statute Book is almost impossible if, when the Consolidation Bill comes up, the whole matter has to be thrown into the melting pot again. On the other hand, if the existing law—not the law in the Bill, because the Bill only reproduces the existing law—but if the existing law is absolutely wrong, then we had better postpone matters in order to bring in an amending Act dealing only with acetylene. I do not know why if the existing law is absolutely wrong Burma has not addressed us on the subject before, because it has been in force for a good many years."

The Hon'ble Mr. SMEATON:—"The Hon'ble Mr. Chalmers has just said that the law has been in force for several years. So it has, but I may point out that the harm done by both those parts of the law to which I have adverted has been as yet on a comparatively small scale. The enterprise in Burma oil has grown by enormous leaps and bounds, and I think that men whose capital is sunk in an enterprise which grows in importance in this way feel themselves pinched as its proportions grow and as competition increases. I admit that they have jogged on in a way, but now the shoe is pinching and they have come forward. They have had no opportunity of examining this Bill, and they have telegraphed regarding the points on which they think the law requires amendment. Unless there is good reason (of which we are at present ignorant) for imposing this extra testing and these extra fees, I think they should be withdrawn. There is no reason, so far as I can see, why these extra fees should be imposed. They are tantamount to an import-tax which may in the end operate most unfavourably on the trade in oil between two Provinces of the same Empire; and the Burma people ask that the *power* under which that taxation is imposed shall be withdrawn. That is the point which they raise. As regards the Bill, I should be very sorry to impede its passing, seeing that it concerns another very important matter, and I understand that the Hon'ble Member in charge considers that the Bill in so far as that matter is concerned should be passed into law. It was in fact on that ground that I abstained from making any suggestions for amendment in the Select Committee. I am perfectly willing to waive any suggestion for amendment at present on the understanding that if the Burma producer is able to make out a good case, it will be considered, and that it will not be said against him, that because he did not take advantage of the consolidation law to make his amendments, these amendments were not necessary."

The Hon'ble MR RIVAZ —"I think I may give the assurance that if any good ground is made out for any radical alteration of the present law, it will certainly be considered, but as the matter will take a long time and the other point is of some importance, and as we wish to amend the present Act on that one point, it surely seems well to consolidate the previous Acts up to date. I do not see that it ties the hands of the Government of India in the smallest way in dealing with the question in future."

The Hon'ble SIR JAMES WESTLAND:—"I quite accept the assurance given by the Hon'ble MR. RIVAZ, and I am quite willing to accept the Bill as it now stands. My feeling was that, considering the state of this industry and the promise there is of its development, we should be careful lest we do anything

that might strangle it. Any new productive industry in India is of extreme value, and I should be very sorry to take any action here that would have any effect in encumbering such an industry or preventing the attraction of capital to it. It was for that reason that I thought it might be well to postpone the passing of the Bill for a short time to give an opportunity of looking up the points to which my Hon'ble friend Mr. Smeaton has drawn attention, but as the Hon'ble Mr. Rivaz has expressed his willingness to look into the matter when it is laid before him in his official capacity, I do not think there is any objection to our passing the Bill as it now stands, and thus improving the law by consolidating the existing Statutes."

His Excellency THE PRESIDENT:—"I think we may pass the Bill in its present form, on the understanding that if any representations are made to us from Burma they will receive full consideration, and that if an amending Act is finally required, the Department concerned will undertake it."

The motion was put and agreed to.

The Council adjourned to Friday, the 24th February, 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 17th February, 1899.

Government of India Central Printing Office.—No. 539 L. D.—1-3-99—320.—K. D T.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 3rd March, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E, C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

The Hon'ble Maharaja Rameshwara Singh Bahadur of Darbhanga.

INDIAN BANKRUPTCY BILL.

The Hon'ble MR. CHALMERS moved that the Hon'ble Mr. Rivaz, the Hon'ble Mr. Allan Arthur, the Hon'ble Mr. Mehta and himself be added to the Select Committee on the Bill to amend and consolidate the law of Bankruptcy

and Insolvency in British India. He said:—"Perhaps I may add one word of explanation. We are not of course going to take up the question of the Bankruptcy Bill at this stage of the session; but a Committee has been standing for many years on this Bill. The only surviving member of that Committee is my Hon'ble friend Sir Griffith Evans. He, I presume, does not wish to go on with the consideration of the Bill by himself; at any rate, he has not shown any disposition to do so, and I therefore move to-day that some of my colleagues be joined with him in order that the Committee may consider whether this Bill, which has been pending so long, should be dropped, or whether it should in a future session be proceeded with. I shall ask the Committee to meet and present an interim report stating whether in their opinion the Bill ought to be proceeded with or not."

The motion was put and agreed to.

COURT-FEES ACT (1870) AMENDMENT BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill to further amend the Court-fees Act, 1870. He said that he would defer any remarks that he had to make till he moved for taking the Report into consideration, which he hoped to do next week.

ARBITRATION BILL.

The Hon'ble MR. CHALMERS moved that the Report of the Select Committee on the Bill to amend the Law relating to Arbitration be taken into consideration. He said:—"Hon'ble Members are aware that this is a Bill to extend to certain selected areas the provisions of the English Act of 1889. It is an adaptation of that Act to India. In the first instance, we have applied the measure to the Presidency-towns and to Rangoon. It is a measure which we believe from experience in England to be suited to the great mercantile cities in India. Possibly hereafter it may be well to extend it to other large cities in India where the conditions are similar to those in the Presidency-towns, but certainly it is a mode of procedure which would have to be extended with caution, and the Committee have provided that it shall only be extended to other areas by the Local Government with the previous sanction of the Governor General in Council. I think that at this stage I need say no more. I will wait to see what other Hon'ble Members have to say on the subject."

The Hon'ble MR. TOYNBEE said:—"Your Excellency, I support this Bill in its present form, but I desire, at the same time, to express my regret that its

provisions do not go far enough to extend to the masses the undoubted benefits which it will, if passed into law, confer on the commercial classes. I should have preferred a measure which would have empowered all the Civil and Revenue Courts throughout British India to assist the people to settle their disputes and differences for themselves without resort to the tedious and expensive procedure of those Courts. Some such larger and wiser measure is, in my opinion, called for in the interests both of the Government and of the people:—in the interests of Government, because the continued increase of litigation means a corresponding increase of State expenditure on judicial establishments which is not discounted (at any rate, so far as the general welfare of the country is concerned) by the increased Imperial revenue derived from court-fee stamps:—in the interests of the people, because it would save them much of their present ruinous expenditure on stamps and lawyers' fees.

"The settlement of disputes by arbitration, my Lord, is no novelty in the mufassal; but it has unfortunately fallen into disuse along with the gradual decay and extinction of the village-communities and of the village-panchayats which played such an important part in the daily life of the people one hundred years ago. In most parts of India, too, the age of personal government is past, and the reign of law has taken its place. In the earlier days of the British administration of India the officers of Government—both judicial and executive—settled numerous disputes out of Court merely by their personal influence.

"But in these later days all they can do is to refer those who ask for advice to the regular procedure of the Courts—a procedure which means ruinous delays, and expenditure on a scale which often involves generations of indebtedness.

"I venture therefore to hope, my Lord, that this Bill is only an instalment, or precursor, of a measure of much wider and more far-reaching scope—a measure, in short, which will benefit the great bulk of the population of India (which is concerned chiefly with the land and with disputes arising out of its ownership and cultivation) as this Bill will, when passed into law, benefit the commercial classes in the Presidency and other large and important towns."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that for the first paragraph of clause 3 of the Bill, as amended by the Select Committee, the following be substituted, namely:—

"The last thirty-seven words of section 21 of the Specific Relief Act, 1877, and sections 523 to 526 of the Code of Civil Procedure shall not apply to any submission or arbitration to which the provisions of this Act for the time being apply."

Exclusion of certain enactments in certain cases where Act applies.

Sec. I of 1877.
XIV of 1882.

He said:—"This is really an amendment composed of two parts. The first I am responsible for, that is to say, the provision that the last clause of section 21 of the Specific Relief Act of 1877 should not apply to cases to which this Act applies. The last part of it is really more in the nature of a drafting amendment introduced to meet certain difficulties, and the credit of it is due to my friend the Hon'ble Legal Member. He proposed it in order to meet certain difficulties which he and I felt, and I think it meets them very successfully, but I move the whole amendment because it cannot very well be moved in two parts. The first part is the only part that I shall say anything about. The second part is not, I think, open to any discussion. The first part turns upon this. before this Act was introduced the only bar which prevented persons who had contracted to refer matters to arbitration resorting to Courts instead of going on with the arbitration was the bar contained in the last part of section 21 of the Specific Relief Act. That was a provision that if a person who had contracted to refer a matter to arbitration, afterwards refused to go to arbitration and filed a suit, his refusal, on being proved, should be a bar to a suit, and that is the only bar that there is all over India now. But we have provided another procedure altogether: we have provided that there should be, as there is in England, a power on the part of the Court to stay any suit which has been filed contrary to the terms of a submission to arbitration, if the Court is satisfied that there is no sufficient reason why the matter should not be referred to arbitration. That is a much wider provision. It catches a great many more cases than the section of the Specific Relief Act does, and it ought to meet the demands of justice in every case. It therefore seemed to me not only unnecessary but undesirable to have two checks—one, the check imposed by the power of the Court to stay proceedings, and the other, the somewhat arbitrary check imposed by the section of the Specific Relief Act. There are some cases where a man is perfectly justified in refusing to go to arbitration, where he has learnt by bitter experience that the other man is only playing and does not mean to go on with the arbitration. On the other hand, the section of the Specific Relief Act leaves a great many ways open of defeating an arbitration, which ways are closed by the power given to the Court as to the stay of a suit. I therefore move this amendment in order to provide that where this Act is in operation and the Court has the power of staying the suit if the suit ought not to be instituted, that there the last words of section 21 of the Specific Relief Act shall not have any effect."

The Hon'ble MR. CHALMERS said —"I accept my Hon'ble friend's amendment. He says it is in part a mere drafting amendment. It is a drafting

amendment to get over this difficulty. As the Bill originally left the Select Committee we were repealing certain sections of the Civil Procedure Code locally and providing for further repeal locally as the Act was further extended. That is a rather awkward proceeding, and it is better to leave the sections of the Civil Procedure Code standing and to provide in terms that so far as this Act is in force in relation to submissions and arbitrations then so far the corresponding provisions of the Civil Procedure Code shall not apply. As regards the point of substance I was not sure for a long time whether it was necessary or advisable to adopt the course suggested by my Hon'ble friend Sir Griffith Evans. He has persuaded me that the power of the Court to stay summarily any suit brought in contravention of an agreement to go to arbitration is sufficient, and that we do not want the additional power that if a suit is not stayed the agreement to go to arbitration may be set up as a substantive defence. The present procedure can be taken at a much earlier stage, and the whole matter can be discussed on its merits on the application for stay."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS also moved that after the proviso to clause 3 of the Bill, as amended by the Select Committee, the following proviso be added, namely:—

"Provided, also, that nothing in this Act shall affect the provisions of the Indian Companies Act, 1882, relating to arbitration." VI of 1882.

He said:—"After we had finished our labours in the Select Committee it occurred to me that there were a large number of provisions in the Companies Act relating to arbitration in Companies. I consulted the Hon'ble Legal Member on the matter, and we both came to the conclusion that it was not desirable at present to interfere with those provisions, and this section is introduced in order to make it quite clear that this Act shall not affect the provisions of the Indian Companies Act. Whether that is absolutely necessary or not is, perhaps, a moot point, but a good deal of argument upon the subject will be stopped by the insertion of this section. It might also have been held that an alternative procedure was created."

The Hon'ble MR. CHALMERS said:—"I accept my Hon'ble friend's amendment. As he says, it is not clear that it is necessary, but it is safer on the whole. We were not prepared in Committee to overhaul the Companies Act. The Companies Act contains two very special arbitration procedures. I am not sure that in future the procedure under this Act might not be applied, but that will be

a labour outside the work of this particular Committee, and it must be undertaken with special reference to the Companies Act."

The motion was put and agreed to.

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"I propose to move the following amendment only in case another amendment I have brought forward is accepted. I do not know if Your Excellency will permit me to withhold this till then:—

that the following sub-section be added to clause 10 of the Bill, as amended by the Select Committee, namely:—

'(2) Every proceeding before an arbitrator or arbitrators under this Act shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code.'"

His Excellency THE PRESIDENT:—"I have no objection if the amendment is a consequential one."

The Hon'ble SIR GRIFFITH EVANS moved that after clause 18 of the Bill, as amended by the Select Committee, the following clause be added as clause 19 (the remaining clauses being consequentially re-numbered), namely:—

Power to stay proceedings where there is a submission.

"19. Where any party to a submission to which this Act applies, or any person claiming under him, commences any legal proceedings against any other party to the submission or any person claiming under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings, and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings."

He said:—"I move what is practically that the section of the English Act, which enables Courts to stay proceedings in suits and providing circumstances under which they should stay proceedings, should be inserted in this Act. As the Bill was settled by the Select Committee, there was a provision that the High Court might make rules for staying proceedings, but there were no definite instructions given to them, nor were they told when they could stay proceedings or under what circumstances. As there was this section in the English Act which could be made available in the present Act with

a very few small verbal alterations, and as that has been construed in the Courts in England and there are a number of valuable cases indicating how the discretion of the Court ought to be exercised and when, I thought it would be desirable to have a substantive section in, and not leave it to the various High Courts to make such rules as they might be advised."

The Hon'ble MR. CHALMERS:—"I accept my Hon'ble friend's amendment. It may be convenient as we have eleven Courts in India with powers of High Courts to give them a lead by enacting the provisions of the English section. As regards the application of that section, rules might still be required, but in inserting the English section we give a general line which is to be followed in staying suits when there is a submission to arbitration."

The motion was put and agreed to.

The Hon'ble RAI BAHADUR P. ANANDA CHARLU moved that in clause 19 of the Bill, as amended by the Select Committee, the following sub-clause be inserted after sub-clause (*b*) (the remaining sub-clauses being consequentially re-lettered), namely:—

"(*c*) compelling the attendance of witnesses and the production of documents before arbitrators and umpires."

He said:—"A distinction does exist between trials in regularly constituted Courts of law and enquiries held by arbitration. That distinction is sound, so far as the decisions of the latter are final and subject to no appeal, so far as the observance of strict rules for admission of evidence is not insisted on, and so far as you need not wait for your turn in a long list of pending cases. The distinction may also be pushed so far as to take away the powers of Courts to set aside awards of arbitrators and umpires except in instances of flagrant injustice. The plain reason at the bottom of all this relaxation of the rules, laid down for Courts to go upon, is that when parties choose to erect a tribunal of their own, which they were not primarily bound to do, they eschew the rigid rules of Courts just as they eschew the Courts themselves. All this I freely admit. To admit as much is one thing, and it is quite another to subscribe to what seems to me a violation of natural justice and the first principles of administering it, *viz.*, the debarring one's birth-right to appeal to Law Courts, without providing that one shall be helped, if one personally is powerless, to bring before the arbitrators all the materials one relies upon, in the shape of witnesses and documents. When relations between two persons become strained, it is inevitably the case that each wishes to take the other at a disadvantage. That sin does

not belong to one side only. One of the usual dodges resorted to, even without active dishonesty, is to ignore the hardships of the opposing litigant. Even the very best are not free from this failing. Where the contest is unequal, in the sense of one party being influential and rich, while the other is not, there is, I am sorry to say, too often an inclination on the part of common friends to keep aloof, aiding neither side if they can help it. To evade being got at or to plead lame excuses is the too frequent practice. This attitude, not unoften, develops in many into a positive disinclination to incur the blame of voluntarily assisting one side as against the other, particularly when that other is an influential one or one with whom they may have other business relations and whose unruffled good-will they lay much store by. In such cases, except partizan witnesses, others, who could give valuable evidence, would usually decline to come forward at the beck and call of the weaker litigant. It is a matter of every-day experience that partizan witnesses are as a matter of course disbelieved, while the others, if they feel inclined to go, too often wish to be served with processes of Courts to have a plausible excuse for seeming to favour one side more than another. Without imputing any motives to the members of influential firms carrying on large and varied business, I cannot help feeling that many a witness having business relations with them will prefer to be well in with them rather than voluntarily speak even truth in favour of persons that have displeased them, be it rightly or be it wrongly. To my mind these are not merely imaginary or suppositious cases. I regard them as likely events of every day, particularly if it becomes well known—as it is soon bound to become known—that, if a witness does not choose, he may safely stay away. I need hardly have dwelt at such length on what my colleagues in the Select Committee admitted to be an undoubted hardship: but then they called it a lesser evil than the chances of a party to an arbitration taking into his head to be obstructive and name a host of witnesses, whom he may not point out to the serving officer, in case he could take the safe position of one who might continually ask for adjournments on the ground that his witnesses have not been served and that it was no fault of his that they were not served. This latter conduct, which is the crux of the objection, seems to me extremely improbable. He can still play the obstruction game by producing a host of witnesses. He can still take oath or make affidavits that he exercised the utmost diligence to produce his witnesses and ask for adjournments. I am not at all sure that in such cases the award made without the evidence of such witnesses would not be set aside or directed to be re-considered. Where fresh evidence was discovered after the award was made, it was held in *Eardley v. Otley*, 2 Chit. 42, that it would be a good ground for a re-consideration of the award, provided it was made out that such evidence was not

procurable by the exercise of reasonable diligence. I should like to know what essential difference there is between that case and those I have supposed. The test is the exercise of reasonable diligence. In that decided case, one effect of that diligence will be an application for the Court's process for the production of witnesses and documents. If such an application is not made, the party must fail. In the case I have supposed, it is nothing less than the helpless situation of the Tantalus of old ; for he is diligent, he has made the discovery, but he cannot get his witnesses to go with him. Apprehensions of abuse for purposes of obstruction ought indeed to be reckoned with, but only to lead to the laying down of effectual safeguards to the contrary—not to the utter denial of all right to use what is proper. Even on the opposite alternative, *viz.*, on the ground that in the circumstances supposed the award would not be set aside, my position is just as strong ; for in that case the party is irretrievably condemned. One hypothesis would defeat the object of this Bill and the other would defeat justice irremediably. A sort of impression exists in certain quarters that there is some difference between mercantile arbitrations and legal arbitrations. In truth, there is no such difference, as Lord Langdale as Master of the Rolls clearly pointed out in *Harvey v. Shelton*, 7 Beav. 455 :

> 'I wholly deny,' he said, 'the difference which is alleged to exist between mercantile arbitrations and legal arbitrations. In every case in which matters are litigated, you must attend to the representations made on both sides, and you must not, in the administration of justice, in whatever form, whether in the regularly constituted Courts or in arbitrations, whether before lawyers or merchants, permit one side to use means of influencing the decision, which means are not known to the other.'

"That was a case in which an arbitrator sought an explanation of a figure in an account book during the absence of one of the parties to the litigation. But the cases I have supposed are, if anything, much stronger. They are manifestly cases in which the parties know how to meet the case made by the opposite side, but can invoke no power on earth to help them in meeting it, and this for no fault of theirs. In plain English, the drawback I am complaining of amounts to turning arbitrations into engines for arbitrary acts. It will prove a fraud on power in the name of speedy justice. It is only next door to another preposterous demand made on behalf of the mercantile community and refused by the Select Committee, *viz.*, that if *bodies* of that community had rules of their own that all disputes between them and their customers should be determined by arbitration, this Act should apply, even although the contracts themselves contain no agreement to go to arbitration. The last thing which I wish pointedly to refer to is that, in the English Arbitration Act of 1889, on which this Bill is

modelled, a distinct provision exists, more effective and more direct than my amendment amounts to. It is section 8 of the Act, and it lays down that any party to a submission may sue out a writ of subpœna to witnesses to give evidence or to produce documents. I am not aware that all the litigants elsewhere are angels and all here are the opposite of angels."

The Hon'ble MR. CHALMERS said:—"I must oppose this amendment for the reasons which I gave in the Select Committee. When we were discussing this question in the Select Committee my first impression was that we ought to insert the provision which my Hon'ble friend now moves by way of amendment. That provision corresponds, as he has pointed out, to a provision in the English Act—a provision with which I am familiar and which works well in England; but on the Committee were various Hon'ble Members who have had much experience of arbitration in India. I have had no such experience. According to their experience and according to their opinion a provision of this kind would be used in India for purposes of delay, for the purpose of increasing expenditure, and for purposes of vexation. In a matter of that kind where there is a fair doubt I think the best thing is not to introduce a new provision into the law. As the law stands at present in India, there is no power to compel the attendance of witnesses before an arbitrator, but as my Hon'ble friends Sir Griffith Evans and Mr. Allan Arthur pointed out—and they have had large experience of arbitrations—the people who go to arbitration are people who really want to get their suits settled, and no practical difficulty arises in getting the necessary evidence produced before an arbitrator. If that is so, it is clearly better not to introduce this provision at once. If, after a longer experience of the working of the Act, we find such a provision necessary, well then it is an easy thing to insert a small amendment, and, if I may say so, I think my Hon'ble friend's amendment is in the form which would meet the occasion. For the present, however, and in the present Bill, for the reasons I have given, I must oppose the amendment."

The Hon'ble MR. ALLAN ARTHUR said:—"I have had a good deal of experience of mercantile arbitrations both in Bombay and Calcutta during the last twenty years, and I can recollect only one occasion on which witnesses were called in. On that occasion I had no difficulty in getting the witnesses. I may say that on this point I consulted the Secretary to the Bengal Chamber of Commerce, and he says that during the last ten years there has not been a single occasion on which witnesses were called in cases of surveys by the Chamber of Commerce, and I may say that the Chamber undertakes a great many surveys

every year. The Secretary of the Bengal Chamber of Commerce has had 29 years' experience of Calcutta, and he recollects only one occasion on which witnesses were called in an arbitration; and I think, in the light of this experience, to give arbitrators the power to call witnesses is unnecessary, first, because it has been found in practice that they are seldom called in, and, secondly, if they are wanted to be called, there is no difficulty in getting them. I not only think it unnecessary, but I also think it undesirable. I take it that the object of arbitration is to provide what might be called a rough and ready means of settling disputes, and if you give to an arbitration all the machinery of a Law Court I think you defeat the very object for which this Bill has been introduced. I further think that the arbitrators have to be considered. For instance, as a busy man I would have very great objection to sit in an arbitration if I knew that my co-arbitrator would call in a dozen witnesses and unduly prolong a case. I think this is the view that most merchants would take, and I am of opinion that if this amendment is passed you will probably not get the proper kind of man to sit on an arbitration. For these reasons I will vote against the amendment proposed by the Hon'ble Rai Bahadur Ananda Charlu."

The Hon'ble SIR GRIFFITH EVANS said :—" When I heard the glowing speech of my Hon'ble friend next to me (Rai Bahadur Ananda Charlu) I began to wonder how we had got on all these years. There has been private arbitration going on ever since I have been in the country, that is, 31 years, and private arbitrators not appointed by an order of reference have never had these powers, and awards have been filed and the people never demanded this 'birth-right' which my Hon'ble friend Rai Bahadur Ananda Charlu refers to. I imagine that with regard to that birth-right of appeal to the Law Courts, in arbitration cases most of them would be very glad to barter it for a mess of pottage and would be well advised in doing so. A submission to arbitration is in effect a contract not to resort to the Law Courts as regards a particular matter. The demand for this Bill arose from certain small difficulties connected with submissions to arbitration. One was with regard to a clause for arbitration including future disputes which is not provided for under the Civil Procedure Code—at least it was held by many of the Courts not to be provided for. The other was that a submission could not be enforced unless the arbitrators were named in it, or there was a provision that the Court should appoint them. It was mainly for those considerations that this Bill was introduced. But then how did it stand under the former law? If a man had contracted to go to arbitration, the result was that if he refused to go to arbitration his refusal was a bar to a suit. Therefore he was barred from recourse to the Courts, and he had to go on with the arbitration, and the arbitrators had no power to summon

witnesses. There he was writhing with the loss of his 'birth-right' and never knew anything about it and never discovered it till the present moment. The next thing is this: we all know that in the mufassal applications for summonses for witnesses, and if they do not attend applications or warrants to seize their goods, are daily used as machinery for delaying a case. It seems to be a very unwise thing to go and alter the character of private arbitrations as they exist at present in India and turn them into miniature Courts of Justice. If it should be found that such a step is necessary, there will be time enough to do it afterwards. But it is this desire to provide for all possible cases of hardship and injustice which has led us in so many of our Indian laws to go into too elaborate a procedure which has turned out to be too expensive for the people and not worked well I fear there would be a very great probability, having regard to the way that litigation is worked in this country, of this provision being used for vexatious purposes: a man could come forward and ask for summonses for witnesses and delay the arbitration If the arbitrators said to him that it was quite useless, and would not summon the witnesses, then no doubt an application would be made to set aside the award. That there may be cases of hardship is very possible, but Courts in India can only enforce the attendance of witnesses if they live within a certain distance from the court-house. So that, unless we also provided all the elaborate machinery of taking evidence on commission, there might still be hardship. Under the circumstances one would sooner run the risk of cases of hardship arising, and it must be remembered that the provisions that we have here for stay of execution leave it in the discretion of the Court to allow a man to institute a suit and to go on with it if it appears to the Court that there is a sufficient reason for not proceeding to arbitration. Then, there is another provision, that a submission may be revoked with the leave of the Court. This must meet a case when it could be shown that, owing to the circumstances of the case and the want of power in the arbitrators, justice could only be done by a Court of Law I strongly desire to preserve the rough and ready character of private arbitrations. I cannot recall any instance when a difficulty has arisen as to witnesses and would strongly oppose this amendment."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"In defending my amendment against the hostile remarks of my Hon'ble colleague Sir Griffith Evans, I do not desire to imitate either his method or his style. He has appealed to his experience, though I know little of the length or the nature of that experience. I, too, speak on the basis of an experience of over 28 years. He says he knows no instance of the difficulties I have referred to. I say, for my part, that I have come across not a few. He has found corroboration in a

representative of the Chamber of Commerce. But as no other is here with an acquaintance of the state of things in parts I come from, I must say, I suppose, that they are the majority. It may be that theirs is the experience of Calcutta, which is, in a great many respects, an English city; but I come from an Indian city, and I have lived and moved among the people with my eyes open to their difficulties and hardships. Though I have no support from a local colleague, there is a little matter of considerable significance to which I can appeal, as forcibly telling in my favour, but which has evidently escaped the keen eye of my learned colleague. He has gone through the pains of going over the enumeration of the difficulties, from a wish to cure which, he says, this Bill has had its origin. He has also enlarged on the established consciousness about the serious injury of giving arbitrators the power of compelling the attendance of witnesses and the production of documents. If there had been such a widespread conviction of the horrors of enabling parties to evoke that power of arbitrators, how comes it that, in the Bill as it was introduced, there is a clear provision to let in all that horror? How comes it, I again ask, that no doubt was expressed of its propriety in circulating the Bill for opinion, and no opinion has been called for on that point? I ask again, how comes it that, in giving opinions on the Bill, there is not a howl of horror against that provision from every part of the country? From these circumstances, it is pretty clear, I think, that the right I claim, for the parties who are unable to produce their witnesses, is by no means so outrageous as my Hon'ble friend would make out. My Hon'ble colleague has triumphantly asked how all these years arbitrations have gone on without such a power and without any complaint on that score. The answer is perfectly simple. The arbitrators were repeatedly moved by their own consciences to grant adjournments of the enquiry, over and over again, when the difficulties were brought home to them. In that way, arbitrations, instead of leading to speedy termination of the proceedings before them, had to be prolonged in the interests of justice. The present Bill curtails the powers of arbitrators to a great extent, and hence it is that I expect hardships hitherto not experienced."

The Hon'ble MR. REES said:—"I believe that the wide difference of opinion between my Hon'ble friend Rai Bahadur Ananda Charlu and the Hon'ble Members who have just spoken may be due, to some extent, to the fact that my Hon'ble friend, the Member for Madras, has in mind the Madras mufassal, and the extremely large suburban area which is included in the extensive city of Madras, and the picture he has drawn of litigants in the South, and the description he gave of them, I think, cannot be described as other than accurate. But as I

understand the Hon'ble Member in charge of the Bill to say that if in practice it is found, after the measure has been in working, that it is desirable to introduce such an amendment as my Hon'ble friend has brought forward, it can then be introduced, in which case, since the Bill at present only refers to four or five great cities in India, there would seem to be no great harm in proceeding with it without prejudice to the considerations he has brought forward."

The motion was put and negatived.

The Hon'ble RAI BAHADUR P. ANANDA CHARLU then withdrew his first amendment.

The Hon'ble MR. CHALMERS moved that for sub-section (2) of clause 22 of the Bill, as amended by the Select Committee, the following be substituted, namely :—

" (2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a Presidency-town and the Recorder of Rangoon shall have all the powers of a High Court."

He said this was purely a verbal amendment.

The motion was put and agreed to.

The Hon'ble MR. CHALMERS moved that the Bill, as now amended, be passed. He said :—" In making this motion I have only one word to say. My Hon'ble friend Mr. Toynbee has called attention to a subject of great importance, namely, the possibility of extending arbitration proceedings to the mufassal and to proceedings in Revenue Courts as well as in Civil Courts. I quite admit the importance of his suggestion. I quite admit that it is a subject to which every attention ought to be given, but I think, if he examines this Bill carefully, he will see that its machinery will be absolutely inapplicable to cases of that kind. The whole subject will have to be considered not with reference to what may be called mercantile arbitrations, but with reference to the practice and procedure of panchayats in different parts of the country. However desirable such a measure may be, it would be impossible to overweight this Bill with it, and it would have been impossible in following the English Act to apply its provisions to cases of the kind mentioned by my Hon'ble friend."

The motion was put and agreed to.

CURRENCY-NOTES FORGERY BILL.

The Hon'ble SIR JAMES WESTLAND presented the Report of the Select Committee on the Bill to amend the law relating to the forgery of currency-notes and bank-notes. He said:—" Hon'ble Members will no doubt be surprised to find that in the re-draft of the Bill which has been sent up by the Select Committee the whole Bill is printed in italics, that is to say, every single word of it has been altered. The real reason of that is that instead of following the English law on the subject we have thought proper to adopt rather the phraseology and form of the Indian Penal Code. I observe that in many opinions that were sent up to us the gentlemen expressing opinions were rather taken aback by the clause which indicates that under certain circumstances the burden of proof was to lie upon the individual accused. I do not know whether there is really much harm in that. It seems to me that if a person is found in possession of a Rs. 1,000 forged note, and if he refuses to give an account of it when asked to do so, the circumstance of his refusing to give an account of it would be strong evidence of his guilt. It was out of a case like that that the provision practically arose, that is to say, a man having a plainly forged Rs. 1,000 note presented it at the Currency Office for encashment; it was at once discovered there, and he was arrested and called upon to account for his possession of the note; he refused to say a single word about it. Now it is quite obvious that he had not honestly come by that note, and it was also quite obvious that if he had honestly come by that note he would have been willing to say where it had come from. It is also equally clear that in the case of small notes of Rs. 10, which people receive continually without examination, it would be rather dangerous to put upon the person receiving them the burden of proving that he has honestly come by them, and it was with reference to these small cases chiefly that the gentlemen who made an objection to the burden of proof being cast upon the accused person founded their remarks. There was also a difficulty as to the extent of knowledge or reason to believe which should form part of the evidence of proof of the offence. In examining this we looked at the provisions of the Penal Code with reference to the cognate offence of forgery of stamps, and our draft of the Bill as now laid before the Council is for the most part based upon, and follows the provision of, the Penal Code with reference to counterfeit of stamps. I apprehend therefore that, although as I say the whole Bill has been recast by the Select Committee, it will be found that the change is not a substantial one. It is only one of form, and the Select Committee accordingly in making their report have indicated that the Bill has not been so altered as to require republication and recommend that it should be passed in the form in which it now stands. I have no other remark to make upon the Bill, but I hope we shall be able to pass it before the close of the session."

CARRIERS ACT AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Report of the Select Committee on the Bill to amend the Law relating to Carriers be taken into consideration. He said :—"I think the amendments in Committee are very small, and they are sufficiently explained in the Report of the Select Committee. I will reserve any remarks I have to make until I hear what other Hon'ble Members have to say on the subject."

The Hon'ble SIR GRIFFITH EVANS said :—"I have no objection to the passing of this Bill. It is a redress of one of the grievances and one of the smaller complaints by the Steamer Companies. Their most important grievance, however, remains unredressed It will undoubtedly, I think, have to be remedied some day, and that is this : that they are handicapped in their competition with the railways by having an entirely different liability cast upon them. Railways have got the initial liability of a mere bailee for hire, that is to say, that they are bound to take the same care of goods as a man of ordinary prudence would of his own goods. On the other hand, the Insurance Companies have by law the initial liability of being absolute insurers against everything except the act of God or the Queen's enemies, and have therefore to bear the whole of the brunt. There are also other things with regard to which a Railway Company has an advantage. There are easier means provided for their entering into a contract to lessen that already smaller liability than are provided by the Steamer Companies. I am not going to weary the Council with this matter. I only wish to have, as it were, my protest recorded that the Steamer Companies have not got full justice or fair play in this matter. I have set out the whole position of the Steamer Companies in the debate on the amendment of the Indian Railways Act, 1890, which debate was on the 5th of March, 1896, and therefore I will not weary the Council by going over the same ground again. One reason why the Government of India would not place them on an equality with the railways was that they had the monopoly on the Brahmaputra for tea Now that the Assam and Bengal Railway has gone up there, there is severe competition with the railway. It simply comes to this that the railway capital is either the capital of Government or is guaranteed by Government in nine cases out of ten. The capital which works the steam traffic on the great rivers which are the natural highways of India is entirely brought in by private enterprise, and that is handicapped, and I do not think that handicap can be continued. I desire therefore to place this on record, that more will in my opinion have to be done before long in the way of amending the Carriers Act."

The Hon'ble MR. CHALMERS said :—"I am not prepared at the present moment to discuss the question which the Hon'ble Member has raised. The

debate which he refers to took place before I joined the Government of India, and I am not prepared to express any opinion on the subject. This Bill, as he says, is a concession, and I am glad that he is prepared to accept it on the principle that half a loaf is better than no bread."

The motion was put and agreed to.

The Hon'ble MR. CHALMERS moved that the Bill, as amended, be passed.

The motion was put and agreed to.

The Council adjourned to Friday, the 10th March, 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 3rd March, 1899.

NOTE.—The Meeting of Council which was fixed for the 24th February, 1899, was subsequently postponed to the 3rd March, 1899.

Government of India Central Printing Office.—No. 668 L. D.—11-3-99.—320.—E H.

SECRETARIAT LIBRARY

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14.)

The Council met at Government House, Calcutta, on Friday, the 10th March, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

The Hon'ble Nawab Bahadur Sir Khwaja Ahsanullah, K.C.I.E.

NEW MEMBER.

The Hon'ble NAWAB BAHADUR SIR KHWAJA AHSANULLAH took his seat as an Additional Member of Council.

QUESTIONS AND ANSWERS.

The Hon'ble MR. GANGADHAR RAO MADHAV CHITNAVIS asked:—

"I. Is it not the fact that in the North-Western Provinces and Oudh the Government assessment is 50 per cent. and that the sír is assessed 25 per cent. lower than the raiyati standard?

"II. Is it true that in determining the assessment standard for revenue in villages in the Central Provinces during the new settlements Government was influenced by the theory that the Central Provinces are tracts mostly free from famine? Is it not the fact that experiences of the last five or six years have belied this theory?

"III. Is Government aware of the fact that the patel in the Central Provinces, before the advent of the British rule, though he suffered from want of fixity of tenure, realized many direct taxes, such as plough-tax, marriage-tax, a tax on offences, oil-tax, etc., which he was allowed to recover from tenants in addition to rents plus the free unassessed enjoyment of his home farm?

"IV. Will Government be pleased to state if Government, on a report made by the Commissioner of Settlements, was obliged to give relief to malguzars in the Wardha District, and if relief so kindly given and so gratefully appreciated is enough in view of the hardships and losses suffered by landowners since the new settlement?

"V. Will Government, in view of the above circumstances, be pleased, in consultation with the Chief Commissioner, to consider the advisability of ordering a lower assessment in cases of sír land in places where the assessment is 60 or 65 per cent. plus cesses, or by ordering a general relief to landholders of such tracts, and, where the margin for culturable waste does not exist, by ordering a fifty per cent. settlement as in the North-Western Provinces?"

The Hon'ble MR. RIVAZ replied:—

"*Question I.*—The answer to the first part of this question is that 50 per cent. of the net assets is the ordinary standard of assessment in the North-Western Provinces and Oudh. The answer to the second part is that the Local Government may allow the assessing officer, as a matter of grace, to make a reduction in estimating the rental value of sír lands, when the number of proprietors is great and their circumstances poor. In such cases 25 per cent. reduction on tenants' rates is usually prescribed as the maximum.

"*Question II.*—The share of the rental or malguzari assets which is taken by the State as revenue in the Central Provinces has been determined by a number of considerations, chief among which has been the standard of assessment found to have prevailed in the past and the observed ability of the malguzars to pay the assessments thus imposed. The standard of assessment has not been influenced by any theory, but by the ascertained facts of past experience.

[10TH MARCH, 1899.] [*Mr. Rivaz.*]

If vicissitudes of seasons occur in the Central Provinces as elsewhere, there are appropriate and sufficient remedies other than that of revising the standard of assessment; and these remedies, as the reply to a later question by the Hon'ble Member will show, are commonly applied.

"*Question III.*—The Hon'ble Member's description of the position of the patel in the Central Provinces before the advent of British rule is probably accurate. There is no doubt that the patels levied imposts from the cultivators which would be illegal under British rule. The Hon'ble Member need not be reminded that the patel's position under the Mahratta Government in the Central Provinces was not in all respects an enviable one.

"*Question IV.*—Abatements of land-revenue aggregating Rs. 3,197 in 1897-98, Rs. 3,197 in 1898-99, Rs. 2,771 in 1899-1900, and Rs 54 in 1900-1901 have been granted in the Wardha District on account of temporary decline in the occupied and cropped areas. The Government of India have no reason to think that the relief thus given is insufficient.

"*Question V.*—The 'above circumstance' is presumed to be the alleged hardships and losses suffered by landowners in the Wardha District since the new settlement. The Wardha District was one of the least affected parts of the Central Provinces during the recent famine, and no circumstances have come to the notice of the Government of India which lead them to think that the relief asked for by the Hon'ble Member is required. In districts where the losses of landowners have been undoubtedly heavy, relief, through suspensions and remissions and temporary reductions of land-revenue, has been given on a large scale, and the Local Administration is fully competent to deal with the Wardha District if the relief already given is found by it to be insufficient."

COURT-FEES ACT (1870) AMENDMENT BILL.

The Hon'ble MR. RIVAZ moved that the Report of the Select Committee on the Bill to further amend the Court-fees Act, 1870, be taken into consideration. He said:—"When this Bill was introduced it was explained that its object was, first, to provide a check on the under-valuation of estates by persons applying for probate of a will or for letters of administration: and, secondly, to place on a more satisfactory footing the existing law relating to the realization of the duties payable on probates and letters of administration.

The Select Committee have kept to these two points, and have abstained from considering various suggestions which have been made for altering the general law on the subject of succession-duty, either in the direction of obliging Hindus, Muhammadans and Bhuddists to take out probate or letters of administration, or to exempt Native Christians from that obligation, as being quite outside the scope of the present measure. The alterations which the Committee have proposed in the Bill as introduced are confined to what they consider will be improvements in the procedure for giving effect to the object in view. These alterations are fully explained in paragraphs 3 and 4 of the Committee's report, and I need not take up the time of the Council by repeating what is there said."

The Hon'ble MR. REES said:—"My Lord, the Hon'ble Member has referred to the case of 'the Native Christians'. Under the existing law every Indian Christian's estate valued at over Rs. 1,000 pays succession-duty on the whole estate at 2 per cent., as it is compulsory upon their heirs and executors to take out probate or administration under the Succession Act, from the operation of which Hindus, Muhammadans and Buddhists are exempt. Similarly, under the Administrator General's Act, where no person has taken out probate or administration of a deceased Christian's estate within a month after his death, the Administrator General may take proceedings, and it is the duty of the District Judge to report in such cases to the Administrator General and to take possession of the property pending probate or administration.

"The exempted classes, or rather all Indians other than Native Christians, Hindus affected by the provisions of the Hindu Wills Act, and Parsis,—who have their own succession law,—only pay the 2 per cent. on such debts due to the estate as they cannot recover without the aid of a succession certificate, and they take out a certificate for the collection of such specific debts, and pay 2 per cent. on that amount and no more. Nor, in their case, can the Administrator General intervene except in the Presidency-towns, and only for the protection of the estate.

"The reason for this inequality of treatment is that the Succession and Administrator General's Acts are based on English law, and were intended to apply primarily to the English in India and to races having a foreign domicile but residing in this country, to persons other than Muhammadans and Hindus, the latter expression so clearly referring to a race and not a religious distinction that it includes Sikhs and Jains in this behalf. Sir Henry Maine on introducing the Bill had said that after exempting Hindus and

Muhammadans the Legislature had been brought successively to except nearly every native race in India, and in accepting an amendment empowering the Governor General in Council to exempt any race, tribe or sect and also every part of such race, tribe or sect, he said :—

'If necessary, therefore, it would be possible to exempt Native Christians from the operation of the Act.'

"Similarly, in introducing the Bill for the exemption of Parsis from the Administrator General's Act, or certain parts thereof, the Legal Member of the Government said :—

'There is no doubt that the Act was originally intended to apply chiefly, if not solely, to Europeans and other persons with a foreign domicile residing in India.'

"The Indian Christians in Mysore and Coorg were accordingly exempted when the State of Mysore was under British administration.

"It is clear that what was intended was a race and not religious exemption. True, Buddhist and Muhammadan are religious designations, but Hindu also signifies inhabitant of Hindustan. The object was to exempt the inhabitants of Hindustan, who were subsequently given the permissive Probate and Administration Act.

"The object of the present amendment of the Court-fees Act is simply to prevent evasions of the existing law, but important changes are made, and I gratefully acknowledge, on behalf of the Christians of the South, the amendment now made in Select Committee in section 20, Act VII of 1889, whereby the Chief Controlling Revenue-authority's power to remit penalties is considerably extended.

"But the provision requiring valuation and prepayment of court-fees before issue of order entitling to probate and administration will work hardly as regards the Christians of the Malabar Coast. It may be said that they are in the same position as other Indian Christians; but in fact they are, as is shown above, not in the same position as their immediate neighbours in Coorg and Mysore, and it must be observed that they occupy, as a community, at many points along the coast, a higher position in the Hindu world than many other classes of Native Christians, and very generally have small estates which are dutiable. Their position is well known to those who have lived among them, and are familiar with the famous controversy of the Malabar rites arising out of the reluctance of Christians in this part of India to break entirely with the Hindu social system, the property law of

which they were, till the Succession Act was passed, enabled to retain after becoming Christians.

"Though unlike most bodies of Indian Christians they have property, they are none the less far from rich, and prepayment of fees will hit them harder than Hindus, in regard to whom payment of court-fees on probate and administration is optional, and harder than Indian Christians elsewhere, who as a rule are few, and possess no sufficient property to bring them under the operation of the Act. Upwards of three-quarters of the Christian community in India are found in Madras and the States of Travancore, Mysore and Cochin, and on the Malabar Coast they form, in some districts, no less than 25 per cent. of the population. They, and the not inconsiderable number of Christians in other parts of India, are therefore entitled to a hearing.

"It is not, I know, convenient to make proposals of a general character on the amendment of a fiscal Act, but the Succession, the Probate and the Court-fees Acts have before now been amended by one and the same enactment, the subjects with which they deal being intimately connected, and it is a particular class which feels an amendment such as that now before the Council, the more particularly as the Madras authorities, acting, as it seems to me, on a right interpretation of Chapter IIIA of the Court-fees Act, enforce the existing law with the help of the local Revenue-officers.

"Had there been a fair prospect of support, I would have suggested, as an alleviation, that a clause be added to section 19I permitting the Court to require the applicant to furnish security, with one or more sureties, for the prepayment of the court-fee, which now becomes imperative. In the papers relating to the Bill the opinion is expressed over and over again that it is hard on the poor to raise the money for prepayment, and that under section 19I prevention in future, of what certainly was no doubt an irregular procedure, will increase that difficulty, as they will not now have the order on which they used to borrow the money for paying the fees. They cannot do without borrowing, and can no more get their estates administered than the planters can get their estates cultivated without advances. There are manifest objections to the acceptance of security for the payment of court-fees, but the incidence of this tax is as unequal as the circumstances are exceptional, and that the principle is not unknown to fiscal legislation is evident from the provisions of sections 41, 64, 106, 107, 128, 138, 144 and 161 of the Sea-customs Act (VIII of 1878), section 7 (5) of the Inland Bonded Warehouses Act (VIII of 1896), from section 5 of the Opium Act, 1878, and from the provisions for taking

security from persons holding licenses or leases for manufacture or sale of exciseable articles in the Madras, Bombay, Bengal and Indian Excise Acts. In none of these cases, however, is security taken by a Court for money due on account of court-fees.

"The succession-tax is none the less a duty though paid in the form of court-fees, and any increased stringency as regards collection affects chiefly Indian Christians. I hope their case will be considered upon its merits whenever an amendment or consolidation of the existing law on this subject, which I think cannot be long delayed, is under consideration."

The Hon'ble MR. SMEATON said:—"As a member of the Select Committee and as a minor contributory cause of the inception of this Bill, I desire, with Your Excellency's permission, to make a few observations on the remarks which have just fallen from the Hon'ble Mr. Rees. The Hon'ble Member has referred in forcible terms to the hardship likely to be inflicted on the Native Christians of Southern Madras and to the complaints which they have made But there are other large Native Christian communities in India besides those of Madras, and not a word of complaint has come from them. They are content to discharge the obligations which the law has imposed on them. Why should the Madras community be an exception? My Lord, I have personal experience of a large population of Native Christians in Burma—the Karens—who are, equally with the Madras people, affected by the Probate and Administration Law. These people are Christians of a robust type and are always content to pay their way as other loyal subjects of Her Majesty pay their way. In the time of the disturbances in Burma these Karens not only showed their loyalty by paying their taxes cheerfully, but embodied themselves into a battalion and shed their blood for the Government of Her Majesty; and I have never known of any claim made by a relation for exemption from probate or administration duties on the estate of a Karen killed in action. With regard to Native Christians, I recollect that on a recent occasion, while the Contract Amendment Bill was being debated, the Hon'ble Mr. Rees alluded to the prosperous condition of the peasantry of Madras; and the Native Christians, I presume from his remarks, form a large proportion of that prosperous community. I think I recollect the Hon'ble Member saying that the Contract Amendment Act was not required by them. They were too rich for that; they were too well off; there was no usury; raiyat lent money to raiyat on friendly terms and at nominal rates; there was no stringency in the money market; everybody was prosperous: we heard of hoards of money waiting for investment. Now, however, when the Court-fees Bill—a Bill designed simply to enforce payment of lawful dues—is proposed, we are told that

the Native Christians can't afford to pay these dues. In short, my Hon'ble friend's argument comes to this: that the Native Christians are too rich for the Contract Act and too poor for the Court-fees Act. This, to say the least, is somewhat of an equivocal position and one hardly to be recognised by the Legislature. As regards the mixed Hindu-Christians, to whom allusion has also been made, it appears to me as if the intention of the advocacy of these bodies might popularly be described as 'running with the hare and hunting with the hounds'. As Christians, they are glad to have the benefits of probate and letters of administration: as Hindus, they wish to claim exemption from the lawful fees for these benefits. This, too, is a position which can hardly be recognised by the Legislature. In regard to the valuation and the stricter provisions made for collection of the revenue by the Bill now before the Council, I would remark that in two important points the Bill adopts the actual procedure which has been followed in Bombay for the last twenty-five years without difficulty, as has been vouched to us by the High Court of Bombay through its Registrar. The present Bill insists that for purposes of collection of legitimate dues the applicant for probate or letters of administration shall submit a schedule and a valuation, and that until this has been done no order entitling the applicant to probate or letters of administration shall be passed. This, my Lord, from the papers which are before the Council, has been the actual practice in Bombay, and I think we may consider ourselves in very good company indeed in following that practice, and adopting it in the present Bill. As regards security to which my Hon'ble friend Mr. Rees has referred,—the security instead of actual payment of fees,—it has also been found in Bombay that justifying sureties in certain cases of administration have, as a rule, a tendency to over-estimate the estates in order to secure higher fees, and therefore I should imagine the result of substituting security for payment of fees would not be so much to the advantage of the applicant as my Hon'ble friend seems to think. In regard, lastly, to the suggestion which my Hon'ble friend Mr. Rees made about the two per cent. fee on a valuation of estates: in the papers submitted by the representative of the Christians in Southern Madras an attempt was made to show that it would be more just if applications for probate or letters of administration were valued as suits are, and if the formulæ of valuation as given in Part III of the Act were to be adopted for the valuation of estates for purposes of probate and letters of administration. But, my Lord, a glance at the *ad valorem* schedule of that Act will show that, whereas the fee for probate or letters is two per cent. on the market-value of the estate, the fee for a suit averages between seven and eight per cent. on the value of the subject-matter calculated according to the formulæ of Part III of the Act. If, then, the formulæ of Part III were to be adopted

for valuing estates for probate purposes, the advocate of the Southern India Christians could not object if the Government raised the fee from two per cent. to seven or eight per cent., in which case, I take it, these shrewd Christians would not thank their advocate.

"These, my Lord, are the only remarks which I have to make. My Hon'ble friend was on the Select Committee and has had somewhat the advantage of us, inasmuch as we did not know the line he would take in the debate. I hope, however, that the Bill may be found to have emerged from my Hon'ble friend's criticism without a blemish."

The Hon'ble PANDIT SURAJ KAUL said:—"My Lord, in supporting the motion now before Your Excellency's Council, I desire to offer the following observations. The Bill as introduced was carefully considered at the meetings held by the Select Committee and amended after thorough discussion The Bill not only protects the interests of Government, but is also calculated to have a beneficial effect upon the private rights of those who may be affected by it. The Select Committee, I venture to think, has very wisely entrusted to the Revenue-officer of the district the work of preliminary inquiry into the true value of an estate in regard to which probate or letters of administration may be applied for.

"Some persons are of opinion that the Civil Court is a better agency than the Revenue-officers for determining the value of property in such cases. It is true that the Court has got the Subordinate Judge, Munsif or a Commission to do what is necessary, but on the other hand the Revenue-officers can resort to more valuable sources of information, *viz.*, the revenue, settlement, and village records, (2) the personal and local knowledge of such Revenue-officers as the Tahsildar and the Deputy Collector, and (3) of the Collector himself. It is impossible to suppose that these officers will make an unduly high estimate of the value of property for the benefit of the Government. Whatever assessment of value may be made by the principal Revenue-officer of the district after proper investigation and consideration will certainly be a correct one, and under all the circumstances must be more reliable than any that could be made through the agency of a Civil Court. The estimate made will generally be such that it will neither cause any loss to Government nor make the party concerned pay more than the amount which is strictly due.

"No one will, I think, deny that in India, of all the officers in a district, the Collector is the one in whom people naturally place entire confidence, and upon whom they look as their sympathiser and just arbitrator between the Govern-

ment and its subjects; and, this being the case, there can be no doubt that the action of these officers in such cases must and will always produce satisfactory results. The relations of Collectors with the people in their districts are as a rule all that they should be, and I may here say that it is to be regretted that frequent transfers of such officers are unfortunately calculated to affect those relations in an undesirable manner.

"My Lord, notwithstanding these considerations, the Select Committee has provided in the Bill that, in the event of an objector not being satisfied with the assessment of value by the Collector, the Court shall make a further investigation and thereupon come to a decision which shall be final and conclusive, and every possible contingency has thus, I think, been amply provided for.

"The Bill, as amended, is, in my opinion, a suitable measure and one that may, without any hesitation, be passed by Your Excellency's Council."

The Hon'ble SIR GRIFFITH EVANS said:—"The Bill is one to amend the Court-fees Act so as to give the Revenue-authorities greater facilities for recovering the full amount of the tax they are entitled to by the present law on probates and letters of administration. But if the present tax is in some respects anomalous and unjust in its incidence, and if the method of realizing it is unsatisfactory, it may well be the duty of those Members of the Council who so think to call these matters to the attention of Your Excellency's Government, and to point out that, if they agree to the proposed measure, it is only as a temporary makeshift, and that the only reason why they do not press for the necessary changes at present is that the limited scope of the Bill renders it impossible.

"In fact, the question reduces itself to the practical issue whether we should refrain from giving increased facilities for the collection of the tax until the tax itself is placed on a juster and more equitable basis. This renders it necessary briefly to consider the objections to the tax and to its method of collection, and to explain why, though regarding it as unsatisfactory, I do not vote against the Bill.

"This tax is in the nature of a succession-tax or death-duty. But there is no general succession-duty in India. It is only collected in cases in which probate or letters of administration are taken out of the Courts, or when a certificate is required from the Court to sue for the debts of a deceased person, but the tax is collected not as a direct tax, but in the veiled form of a court-fee on the document issued by the Court. The result, however, is that a tax of two per cent. on the whole estate of a deceased person, including land, is payable by

that class of Her Majesty's subjects in India which is compelled by law to take out letters of administration in case of intestacy.

"That class has to pay the tax equally, whether they make a will or not. This is a comparatively small class, consisting mainly of Europeans, Eurasians, Native Christians and Jews. The bulk of the inhabitants of India—Hindus, Sikhs, Jains, Buddhists and Muhammadans—are exempt from this compulsion. They pay practically under the Succession Certificate Act only on such debts of the deceased as they wish to recover through our Courts. If they should desire to take out probate or letters of administration, they are enabled to do so under the Probate and Administration Act, and then they must pay on the whole estate; but it is optional to do so or not.

"There is the further anomaly that if a Hindu makes a will in Bengal or the Presidency-towns his representative is compelled to pay the full tax—if he makes one elsewhere it is optional. There is a further anomaly that if the Hindu is governed by the Mitakshara school of Hindu law his representatives escape even the tax on debts if the property is joint, because the other members of the family succeed by survivorship and not by inheritance.

"The history of the various Acts which have led to these results was discussed in 1889 on the debate on the Bill to amend the Probate and Administration Act and on the Succession Certificate Bill, and attention was then drawn to the unequal incidence of the tax. Again, in the debate of the 27th March on the Budget of 1894 I drew attention to the fact that this tax operated practically, though unintentionally, as a tax on Christianity in India.

'I will not weary the Council with going into complicated details which will have to be considered some other time. The position broadly is this: it is possible that some day there may be a direct succession-duty in India as there is an income-tax, apart from court-fees. But in spite of severe financial pressure the Government has decided for the present against such a tax.

"They also decided that they could not fairly make it compulsory on the native inhabitants generally to take out letters of administration because it was a foreign procedure unknown to them and alien to their habits—a hardship and a thing difficult to enforce — and unnecessary for the protection of their estates.

"The Acts which render the taking out of letters of administration compulsory are the Succession Act of 1865 and the Administrator General's Act.

"The Succession Act consists of two parts—one a general law of succession, the other a procedure for taking out probates and letters of administration.

"The effect of the Act and the Administrator General's Act is to render the taking out of probate or letters of administration compulsory on all those who are governed by the first part, that is, by the general law of succession there laid down for all but the Hindus and Muhammadans, etc., who have their own personal laws of succession.

"Now this compulsion was introduced in the first instance not for fiscal purposes but for the protection of the estates of Englishmen and other migratory foreigners in India, and I admit that for them it is necessary.

"The general law of succession prescribed by the Succession Act was made applicable to all who had no personal law of succession of their own, and it was because on conversion Native Christians became relieved from the Hindu and Muhammadan law of succession that they came under the Succession Act. This, was right and necessary to furnish them with a settled law of inheritance.

"But the compulsory procedure which compels them to take out letters of administration on intestacy is as alien to their habits and as unnecessary for the protection of their estates as if they had remained unconverted.

"It seems unjust that conversion because it changes the rule of inheritance should subject them not only to a tax but drive them into a legal proceeding which they do not want and is no benefit to them.

"The remedy is to place Native Christians in the same position as to letters of administration in cases of intestacy as their unconverted brethren.

"If they can afford the luxury of making wills, I think they may be content to be in the same position as a Hindu in Bengal or the Presidency-towns.

"The relief can easily be given not by exempting them from the Succession Act, but by enacting that the provisions of the Succession Act and the Administrator General's Act as to letters of administration in cases of intestacy shall not apply to them but they shall be in the same position as Hindus and Muhammadans and be subject to the Probate and Administration and Succession Certificate Acts.

"The other inequalities which concern the Europeans and others can wait until there is a full reconsideration of the whole question, for they must take out letters of administration and pay some court-fee upon them. But the injustice of the position of the Native Christian is so great that one may well press for its immediate redress.

"What the effect on the spread of Christianity may be I do not know any more than I can say what effect it would have in England if the profession of Buddhism rendered its professors exempt from succession-duties. Possibly many persons might see points in Buddhism as the Way of Deliverance which they do not at present.

"I press for this because these Native Christians are a feeble folk. It has been said by the Hon'ble Mr. Smeaton these Christians continue loyal. They are a very long-suffering people. How long-suffering is seen by the fact that the Catholic Christians can get no redress as to the hardship of the marriage laws. Their converts are branded as bigamists, their children bastardized and the priests turned into criminals. They have been told to get redress under the Native Converts Act, which does not apply to them. Yet there has been no public outcry, no public reviling of the Secretary of State. So far as is known. they have not gone further than to pray for his enlightenment—prayers which, I trust, may be heard.

"I mention this to show that the absence of disloyalty among these Christians is no argument to show they are not suffering a great injustice. It only shows they are like the early Christians—ready to turn the other cheek when smitten.

'Then there is the further point that this Bill as originally introduced throws on the Courts the duty of investigating the value of estates for revenue purposes. This is very objectionable in principle. The Courts ought to have nothing more to do with the valuing of estates than with the valuing of incomes.

"However, the evil has been somewhat abated by the Select Committee, and further by one of my amendments.

"The necessity for the Bill arises mainly from the Hindus and Muhammadans, who have an option of applying for letters of administration, trying to evade the duty. It is mainly because I recognise that this is very extensively done, particularly in the mufassal, that I appeal to these further facilities being given for the collection of this most unsatisfactory tax."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"I share the opinion of the Hon'ble Mr. Rees with reference to the hardship that at present the Native Christian in Southern India suffers. It occurred to me that this was not the proper occasion to go fully into that question. If my Hon'ble friend had not touched upon it, and if he having touched upon it there was none to oppose

it, I should probably not trouble the Council with any observations; but fortunately for me it so happens that there is one who has practically exhausted the whole subject. Most of what I had to say to indicate the difficulty has already been said, and in that way it may be a relief to the Council; but I must point out that it is not a question of loyalty at all as the Hon'ble Mr. Smeaton has stated. It is rather a question of equality of taxation. If in the administration of a law a hardship is felt by a certain class, it would be a very curious interpretation of loyalty to say that those people are not to put forward their objections against the hardships that they are suffering. Nor does it follow that. because the Burman Christians are so submissive as to shed their blood therefore they are to go on shedding their rupees where they are not bound to do It is, I think, a method of defining loyalty which does not commend itself to me. That they have for a long time submitted to it—and unconsciously submitted to it—is no argument whatever. In every law that we change we find that that law has been submitted to for a number of years, and we change the law with the fact before us that the law has been submitted to for a number of years. Therefore, the question whether the law has been submitted to ungrudgingly for a number of years or not is utterly irrelevant. The question rather is whether the law is just or whether the law is productive of hardship. If the legislature finds that there is a hardship produced by a particular law, I would say it is their duty to remove the evil, although not a single person who suffers from the hardship has come forward to complain of that hardship."

The Hon'ble SIR JAMES WESTLAND said:—"There is one part of the speeches of my Hon'ble friends Sir Griffith Evans and Rai Bahadur Ananda Charlu with which I entirely agree, and that is the statement that the present occasion is not one in which the very wide subject on which they have spoken can be considered by the Council. The question before us is that of making more certain than it is at present the collection of certain duties which are prescribed by law. I hold that this is a mere question of procedure, and this is not the time to raise the question whether the duties themselves are such as ought to be imposed by Government. They already exist in the law as it at present stands. I am quite aware that there is a certain amount of inequality in the administration of the succession-duties. It is a subject which is, however, surrounded with many difficulties, and these difficulties have have been amply laid before the Council by my Hon'ble friend Sir Griffith Evans himself in March, 1889, but I rather think he took a different view then from what he takes now; for to quote from sentences he spoke then it would appear that his

doctrine at that time was that the duties he now urges that the Native Christians should be exempted from should rather be extended to the Hindus and Muhammadans. He points out perfectly correctly that there is an inequality in the duties :—

"It has long been seen that it would be fair in principle to render the payment of such duties compulsory on all alike. But principle is one thing; practice is another."

"And then, talking of the possibility of making the whole of the inhabitants of India pay duties of the kind, he says :—

"What can be got out of them in the way of succession-duties without friction or injustice, it is, I take it, the duty of the Government to itself and to the class which pays these duties to get.'

"And he finishes up by saying :—

"It is not unlikely that means will some day be devised for bringing property held under the Mitakshara law within the reach of a succession-duty. I do not think the difficulties will be insuperable."

"I am perfectly prepared to agree that there is an inequality between certain classes in India in respect to the succession-duties, but I am much more inclined to seek to remove them, not in the way which is at present indicated, namely, by exempting the Christians, but in the way in which Sir Griffith Evans himself indicated in 1889, namely, by extending the succession-duties to those classes who are at present, without intention, exempt from them. However, I will finish up by saying, as Sir Griffith Evans and Rai Bahadur Ananda Charlu have said before, that I agree that the present is not the occasion on which this rather difficult subject can be discussed by the Council. That may have to be done at some future time, but there is one remark which I would like to make, and that is that I think far too much prominence has been given in the discussion to one particular point.

"To hear the Hon'ble Mr. Rees speak of Madras, one would think that no persons but the Native Christians in that Presidency contributed to this tax. Now I have the figures before me here of the last three years, and I find that the whole presidency of Madras during that time contributed about Rs. 60,000 or Rs. 70,000 a year; Bombay and Sind, which contains about half the number of the population of the Presidency of Madras, contributed four times as much; Bengal, which contains half as many inhabitants again as the Madras Presidency, contributed from six to ten times as much as the Madras Presidency. It is obvious, therefore, that these probate-duties are not confined in any way to Native Christians generally, and still less to Native Christians in Madras: the principal contributors are at present the Hindus and Muhammadans of Bengal and Bombay.

"Another suggestion has been made in this matter by Sir Griffith Evans, and that is, that the whole subject is foreign to the duty of the Civil Courts. I can only say, looking at it from a purely financial point of view, that I would be perfectly willing to adopt on the whole question a procedure like that at home, that is, that the Civil Courts are only put in action after a certificate has been given by the revenue-authorities that the valuation of the estate is so much. We do not put upon the Civil Courts any duty in the way of collection; we simply say that they must do the same in respect to applications for probate and administration as they do in respect of all other proceedings before them and see that the applications to them are made on a properly stamped document. If we were to lay upon the Revenue-officers the necessity of certifying the duties in every case, the result would be that every person who wished to take out probate or administration would have first of all to go to the revenue-authorities and then have the investigation pursued as to the value of his property. Now the whole Bill as passed by the Select Committee is a Bill intended to allow the proceedings for probate and administration to proceed as far as possible without any intervention of the part of the Revenue-officer. If the Revenue-officer finds occasion for intervention he has the power to intervene, but I fancy that in by far the majority of cases the Revenue-officer having the power to intervene will not make use of it unless an obvious intention to defraud the revenue was apparent. That is a procedure which from the point of view of the applicant for probate or administration is far more simple and far more easy than laying upon him the necessity of first making an application to the revenue-authorities and satisfying the revenue-authority regarding the sufficiency of his valuation.

"This leads me to another observation which the Hon'ble Mr. Rees made, that is to say, in regard to taking security. I do not think that the Civil Courts should have power to take security. It is not their business to collect the revenue for Government, and they will not, like the Revenue-officers, take the responsibility of seeing that the security is sufficient for purposes of revenue. If the whole matter is handed over to the Revenue-officers, then I have no objection whatever to giving the Revenue-officersw ithin certain limits the power of taking security rather than insisting upon the money being paid down beforehand; but if the matter is to be left to the Civil Courts then I can only quote what the High Court of Calcutta and what the Hon'ble Sir Griffith Evans have said in the matter, that it is not the business of the Court to see that revenue is properly collected."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that in the new section 19 H (6) of the Court-fees Act, 1870, proposed by clause 2 of the Bill, as amended, for the words "officer authorized" the words "person authorized by the Court" be substituted, and that to the same the following be added, namely —

"The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report unless it is satisfied that it is erroneous."

He said:—"The object of this amendment is two-fold. One is to relieve the Court of the District Judge from having to hold the inquiry itself and enable him to depute somebody else to do so. The other object is to provide some machinery for the making of a report and provide a procedure.."

The Hon'ble MR. RIVAZ:—"I am quite willing to accept this amendment. I understand it is practically applying to these cases a somewhat similar procedure to that laid down in the Civil Procedure Code for local investigation by a Commissioner, and it is, I think, a desirable provision."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that to the new section 19I of the Court-fees Act, 1870, proposed by clause 2 of the Bill, as amended, the words "on such valuation" be added, and that after the same the following sub-section be added, namely:—

"(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (4)."

He said:—"The object of this amendment is, in the first place, to make it clear that the fee is to be paid on the valuation of the assets by the affidavit of the applicant in the first instance. The second part is intended to make it compulsory upon the Court to grant probate at once upon a proper affidavit of valuation being before it, reserving the question of the investigation that may be made by the revenue-authorities afterwards and not to delay the grant of probate because probates or letters of administration, where they are compulsory, are absolutely necessary for the administration of the estate, and if they are not granted quickly the delay may cause loss to the estate and therefore it is necessary to have these grants made at once. In order to make the position of my Hon'ble friend the Financial Member more easy, I have in a later portion introduced an amendment which enables him directly to collect any excess which

may be found on the inquiry at the instance of the Revenue-officers as an arrear of land-revenue; so that they will have the fullest opportunity of collecting it afterwards without delaying the probate."

The Hon'ble MR. RIVAZ:—"I am quite willing to accept this amendment also. The Select Committee in dealing with the Bill recognized that no delay ought to take place in granting probate while an enquiry was going on whether an estate was under-valued, and it is desirable to make the matter quite clear especially having in view my Hon'ble friend Sir Griffith Evans' next proposed amendment."

The Hon'ble SIR JAMES WESTLAND:—"I quite agree with my Hon'ble friend Mr. Rivaz. From my point of view I think we are amply protected by the power which is given to the Collector to intervene, and that power being given, I do not think there is any occasion to lay upon the Civil Court the necessity of postponing the actual grant of probate or letters of administration. The interests of the revenue are sufficiently protected in the power of the Collector to intervene, and I do not think it is necessary to protect them further by ordering or sanctioning any delay in the issue of probate or letters of administration."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that in the new section 19J of the Court-fees Act, 187[illegible] proposed by clause 2 of the Bill, as amended, between the words "Any" and "penalty" the words "excess fee found to be payable on an enquiry held under section 19H, sub-section (6), and any" be inserted. He said:—"The object of this amendment is closely connected with the next one, and I have to say a few words to explain it. When this duty was first introduced it was considered desirable, if I may say so, to veil the character of it as a succession-duty, and to treat it merely as an ordinary court-fee, and to depend upon the ordinary penalties attaching to people who pay in insufficient court-fees. The consequence was that many expedients were resorted to. First of all, the Revenue-officers had to depend on indirect pressure, as an improperly stamped document was not receivable in evidence, under one section, and under another section an improperly stamped document was invalid. Then they introduced various amendments which were unnecessary except for fiscal purposes into the Probate and Administration Act, and which will have to come out some day, and they trusted to this policy of side pressure in order to get the full court-fees. Now that that has failed they have asked

for a direct power of enforcing the revenue through the intervention of the Revenue-authorities, and it has of course become unnecessary to keep up the other side checks and the side pressure which existed before. I have therefore by these words given to my Hon'ble friend the Finance Member what he had not got by the Bill as amended by the Select Committee. The Bill as amended by the Select Committee rendered it at least an open question in point of law as to whether the word 'penalty' would have covered the excess fee which was found upon an enquiry under this Act to be leviable. I have therefore put in a provision for the benefit of the revenue that if an excess is found to be due by an inquiry under this Act, it shall be leviable in the same way as a penalty under the Act and as if it were an arrear of land-revenue. That puts my Hon'ble friend the Financial Member in a sufficiently strong position not to need the other side pressures, and therefore when I come to the next amendment I will explain how I propose to take some of them away."

The Hon'ble MR. RIVAZ :—"When this point was considered by the Select Committee we were somewhat divided in opinion as to whether the Court or the Collector was the better agency to collect these excess fees. Personally I prefer the agency of the Collector, and now that I am fortified with my Hon'ble friend Sir Griffith Evans' opinion I am quite prepared to accept his amendment."

The Hon'ble SIR JAMES WESTLAND:—" I agree with my friend the Hon'ble Mr. Rivaz. "

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that in clause 2 of the Bill, as amended, after the new section 19J of the Court-fees Act, 1870, proposed thereby, the following be added, namely :—

Sections 6 and 28 not to apply to probates or letters of administration.

" 19K. Nothing in section 6 or section 28 shall apply to probates or letters of administration."

He said :—" Owing to this duty being levied as a court-fee on a grant of probate or letters of administration, the result was produced that although the probate had been stamped by the Court on payment of a duty, yet if the duty were insufficient the documents would be improperly stamped and an objection could be raised to its admissibility in evidence or even its validity. Now, inasmuch as probates and letters of administration are letters of authority to administer property, it was, of course, exceedingly inconvenient that

they should be subjected to any invalidity of this kind. They stand on an entirely different footing from that of ordinary documents not properly stamped, and now that there is a power on the part of the Revenue-authorities to apply for the excess revenue and to collect it themselves, it is unnecessary to continue these side pressures at all. There are one or two others which ought to have been removed—notably the provisions for revoking probates because of untrue statements in inventories; but these matters were not before the Select Committee and, inasmuch as they are sections in the Probate and Administration Act, I doubted if I should be justified in proposing their removal now."

The Hon'ble MR. RIVAZ :—" I have no objection to this amendment either, but it is a matter that more concerns the Hon'ble Finance Member than myself. "

The Hon'ble SIR JAMES WESTLAND :—" There is a provision in the Stamp Act that, when the amount of a stamp-duty has been adjudicated by the Revenue-officer, it shall not be called in question afterwards. I think this proposal of my Hon'ble friend Sir Griffith Evans follows exactly those lines, namely, that when the Revenue-officer has had his opportunity of intervening and has not intervened or through his intervention the proper duty has been adjudicated, no question may thereafter be raised from the point of view of the revenue as regards a sufficiency of the duty. I am perfectly prepared, therefore, to accept the amendment proposed."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill, as now amended, be passed. He said :—" In doing so I hope my Hon'ble friend Sir Griffith Evans will allow me to express my acknowledgments to him for his careful study of the Bill and for the improvements which have been effected by his amendments."

The Hon'ble SIR GRIFFITH EVANS :—" I do not desire to say anything on this motion except to remark that no real answer has been attempted to the grievance of the Native Christians. That they do not pay the bulk of the tax renders it easier and cheaper to relieve them. That I, when discussing the inequality of the tax in 1889, did not point out the special hardship to Native Christians, is not strange seeing that I am not a Native Christian myself, and had not had my attention at that time directed to their position. But that is no reason why I should not come to their aid when I see how they are fallen among tax-gatherers and are sore smitten. To me the time of the Council appears

to have been properly spent, and I should not have felt justified in allowing this Bill to be passed without protest, as it increases the injustice under which the Native Christians are suffering."

The motion was put and agreed to.

CURRENCY-NOTES FORGERY BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to amend the law relating to the forgery of currency-notes and bank-notes be taken into consideration. He said:—"I mentioned, when I presented the Report of the Select Committee, that the objections which had been taken on several sides to the Bill as originally framed were, so far as I understood, removed by the alterations which the Select Committee had made in the form of the Bill. I trust I may take the fact that no amendments have been proposed by any of the Hon'ble Members of Council as an indication that they have been sufficiently satisfied on this point."

The Hon'ble MR. CHALMERS said:—"Perhaps I may say one word as to the amendments made in Select Committee For the most part, as Hon'ble Members are aware, those amendments were formal with the exception of two amendments in substance, and two only. The first is one to which, I think, everyone will agree We have made it a substantive offence to counterfeit a currency-note or bank-note. The second amendment is to some extent a weakening of the law, but it is an amendment which was suggested to us from several sides and which we have seen our way to adopt. We have divided the original first section of the Bill into two parts The first part punishes the offence of trafficking in forged and counterfeit notes. In that case it will be sufficient for the prosecution to prove that the person who traffics in the note or attempts to deal with it as a genuine thing, knew or had reason to believe the note to be forged. It is quite clear that a man commits an offence if he has a forged note in his possession which he has reason to believe to be forged and tries to pass it. Then comes the question of the next section, and here we have modified the original proposal of the Bill. We have gone back from the rule of English law, a law which has been in force for forty years, and we have put in, in deference to the representations received, an extra burden of proof on the prosecution. We have provided that wherever a person is found in possession of

forged or counterfeit notes which he knows or has reason to believe are forged or counterfeit, that the prosecution must, in addition, prove that he intended them to be used as genuine. In English law it is sufficient if the notes are found in his possession and if he cannot prove that his intentions were lawful. We have reversed the proof and laid the burden on the prosecution of proving not only that the accused was in possession of the forged notes, but also that he intended these forged notes to be used for some fraudulent or wrongful purpose. I thought it right to make this explanation, because I see in many quarters that there were apprehensions as to what might be the effect in India of introducing the English law."

The Hon'ble MR. SMEATON said:—"I am glad, my Lord, that the Draconian severity of section 489A of the original Bill in respect of *possession* of forged notes has been softened by section 489C of the amended Bill. May I make a suggestion that, as the burden of proof of dishonest knowledge and intention has now been laid on the prosecution and as the punishment has been reduced from transportation for life to imprisonment for seven years, and as the offence has also been made bailable, arrest by a police-officer without a warrant may be disallowed. My reason for making this suggestion is this. I speak chiefly with reference to the province which I represent, in which I may mention for the information of the Council that the whole of the great export staple—rice—of the province is annually purchased with hard silver rupees. Last year the sum paid for the rice which was brought to the ports of Burma was eleven and one-third crores of rupees paid in hard silver. The Burmans have an aversion to the use of currency-notes. Efforts have been made for the last twelve years, as the Hon'ble Financial Member probably knows, to induce them to use currency-notes, but the efforts have been attended with very small success indeed, and any added terror—any addition to the distrust and suspicion with which Burmans look upon currency-notes—in the shape of arrest by a police-officer without a warrant would, I take it, very likely postpone still further the realization of our object."

His Excellency THE PRESIDENT:—"I am sorry to interrupt the Hon'ble Member, but he seems to me to be proposing an amendment in the Bill without giving notice of any such amendment."

The Hon'ble MR. SMEATON:—"I am aware of this, Your Excellency, and must apologise for it, but I thought I might make a suggestion in case the Hon'ble Member in charge might have thought fit to make a slight alteration in the schedule and change the words 'arrest without warrant' to 'arrest with warrant of a Magistrate'."

The Hon'ble SIR JAMES WESTLAND :—"I think I can give the Council a very good reason why the Hon'ble Mr Smeaton's proposal should not find acceptance In the first place, I think he is not quite right in speaking of the aversion which the Burmans have to using currency-notes. What the Burmans do with these currency-notes is this—they have at the end of the rice season a very large amount of silver in their possession. This silver they desire to retain until the next rice reason comes round. They accordingly present their silver to the Currency Department and take out those very currency-notes of which, according to the Hon'ble Mr. Smeaton, they have such an abhorrence. They keep these notes in their possession until the next rice season comes round, and then they take them to the Currency Office, change them for silver, and use that silver for their rice transactions up-country. I am not afraid of ruin dropping upon the Currency Department by reason of the Burmans ceasing to use currency-notes There are a very large number of people in India who are not Burmans, and I am perfectly satisfied with the amount and the security of our circulation. What I wish to point out with reference to the particular point raised by the Hon'ble Mr Smeaton would be that his amendment would go to weaken the whole procedure of—"

His Excellency THE PRESIDENT :—"There is no amendment before the Council. The Hon'ble Mr. Smeaton has not moved any amendment and cannot at this stage move one."

The Hon'ble SIR JAMES WESTLAND :—"I shall say then that the proposal of the Hon'ble Mr. Smeaton would destroy the whole efficiency of the Bill. What would actually happen is what has happened in most cases, namely, that these counterfeit notes would be brought to the Currency Office, they would be there presented for payment, they would be found to have been forged, and the person who presented them would be handed over to the police for inquiry. If it was made part of the law that the police should not have this authority to arrest without warrant, then the man would simply go away, and the possibility of investigating the case would cease."

The motion was put and agreed to.

His Excellency THE PRESIDENT here explained that this was the stage in the Bill at which it was in the power of the Hon'ble Member to move an amendment if he wished to do so. Rules 28 and 29 of the Rules for the Conduct of Business provided that, on a Bill being taken into consideration by the Council, an Hon'ble Member might move an amendment without the usual notice if no Member of Council objected to his doing so. HIS EXCELLENCY gathered, however, that Mr. Smeaton did not wish to proceed further in the matter.

The Hon'ble MR. SMEATON said that he did not desire to proceed further.

The Hon'ble SIR JAMES WESTLAND moved that the Bill, as amended, be passed.

The motion was put and agreed to.

GLANDERS AND FARCY BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Glanders and Farcy. He hoped, he said, at the next meeting of the Council to move that the Bill be passed.

INDIAN TARIFF ACT (1894) AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to further amend the Indian Tariff Act, 1894. He said:—" I see that it is stated in the List of Business that my object is stated in the title of the Bill. With all deference to the Hon'ble Member who has charge of the Legislative Department, I think it would require a large amount of perspicacity for anyone to see my object stated in the title of the Bill. As a matter of fact, I am proposing to open an entirely new chapter in our fiscal history, and which I have already endeavoured to make plain, in language which is not legal and not legislative, but which, I fancy, has been understood, by statements made in the newspapers.

" I propose to ask the leave of the Council to introduce a Bill which will have the effect of conferring upon the Government a power to impose countervailing duties in the case of bounty-fed sugar imported from European countries. I shall not take up the Council's time by explaining the economic effect of bounties and of countervailing duties. I take it for granted that Hon'ble Members know these matters as well as I do myself, and, if I refer to them for a short time, it is only with the object of introducing to the Council the facts with regard to which I shall have to satisfy them in asking leave to introduce this Bill.

" It is well known that the effect of bounties is two-fold. It affects in two entirely opposite directions the interests of the consumer and the producer. So far as regards the consumer, it brings the article of consumption to the market at a cheaper price than would otherwise be available to him. In that respect he receives benefit. But the producer looks at it from a different

point of view. It supplants in the market the produce which he would otherwise bring to it by a competitive produce which has attached to it an artificial advantage. England, of course, is, as regards sugar, a nation of consumers. No project for the imposition of countervailing duties has there been made; but India, on the other hand, is, to a very large extent, a nation of producers, and the productive interests of the country in respect of sugar are, as I hope to satisfy the Council, extremely important, and ought to be safeguarded by any measures that we can take. As regards the interests of the producer, I shall quote some official documents which have reference to them, and will show that sugar is a particularly important product in this country. Hon'ble Members will no doubt excuse my beginning my quotations by a reference to an old Financial Statement—that of 1877-78. Sir John Strachey in talking of sugar in that statement says:—

'It is one of the most important agricultural staples of those provinces, and it is important not only to the agriculturists and manufacturers and consumers, but directly to the Government, which looks greatly to sugar cultivation for its irrigation revenue.'

"Then again, when the Chamber of Commerce, Calcutta, made a representation about a year ago on the subject of sugar, they also drew attention to the extreme importance of the productive interests connected therewith. They enclosed a memorandum from the firms interested in the sugar industry in Calcutta, in which it was said:—

'The importance of cane cultivation in the agricultural scheme of almost every Province in India is perhaps hardly appreciated, except by those officials whose duties have brought them into association with the settlement of land-revenue. The remark may be found in many a settlement report that in such and such tracts the entire rent, and therefore the entire revenue, is paid from the cane-field. "The peasants say," writes the Settlement-officer of Bareilly, "that sugarcane is to other tillage as the elephant to other beasts." In almost every settlement report and district gazetteer of the Punjab, of the North-Western Provinces and of Oudh, the extremely important position held by sugarcane in maintaining agricultural prosperity is prominently noticed, as the extracts quoted below sufficiently indicate;'

and then they proceed to make the extracts justifying the statement. Again, in a report from the Lieutenant-Governor of the North-Western Provinces received the other day, talking of the possibility of the reduction of cultivation of sugar in the North-West, he says:—

'The closing of refineries must lead to a contraction in the acreage under sugar. This reduction might, if the refining industry were destroyed, reach a maximum of 250,000 to 300,000 acres. Such a reduction in the acreage under a valuable and paying crop would

cause far-reaching injury to landlords, tenants and the labouring population, and might affect the well-being of the rural classes to an extent that would produce serious discontent in the sugarcane-growing regions. The stability of the Government revenue would be affected, not indeed directly, because the land-revenue assessments are not ordinarily made on the special or crop rents that are in some places paid for land let out for a cane crop, but because the reduction of the profits of a valuable crop would impair the rent-paying capacity of the tenants, and thus cripple the resources of the landlords.'

"Perhaps these extracts will show the importance which is attached from the agricultural and economic point of view to the maintenance of sugar cultivation. With reference to the interests of the consumer, which I mentioned are entirely in the opposite direction, there is one very considerable discount to be reckoned in India, and that is, that the bounty-fed sugar is a refined sugar, and the sugar which is affected by it in this country is mostly the refined article. The common people of this country, that is, the poorer classes, do not, for the most part, consume refined sugar, although they are taking to it lately in larger quantities. The principal staple, however, of their consumption is unrefined sugar, and, so far as we can trace it at present, although the unrefined sugar has to a certain extent been affected by the large importation, to which I will presently allude, of bounty-fed sugar, still it is mostly in the direction of the cheapening of refined sugar that the effect of this bounty-fed import has been seen. Accordingly, although the consumer has benefited by the cheapness of the bounty-fed importations, yet the consumer who is so benefited is not the poorer classes but the classes who are comparatively well able to bear the burden of the removal of the cause cheapening their sugar. I find that the report made by the West Indian Commission expresses this view even with regard to England. They state:—

'It has, we believe, been argued that the reduction in the price of sugar which has resulted from the bounty system is such a source of gain to the British Empire as a whole that it would not be right for Your Majesty's Government to initiate any measures to bring about the abolition of that system. In that argument we do not concur. * * The benefit which the British Empire as a whole derives from any lowering of the price of sugar due to the operation of the bounty system is too dearly purchased by the injury which that system imposes on a limited class, namely, Your Majesty's West Indian and other subjects dependent on the sugar industry. * * We have, therefore, no hesitation in saying that the abolition of the bounty system is an object at which Your Majesty's Government should aim, if they should see their way to securing that result, and that the accomplishment of such an end is worth some sacrifice, provided always that such sacrifice would be really effective and would not involve evils out of all proportion to those which it is desired to remove.'

"Of course we are not, so far as this Legislative Council is concerned, considering the interests of the West Indian subjects of Her Majesty; but the very

expressions here used might be adapted to India with a small variation, and we might say that the benefit which India as a whole derives from any lowering of the price of sugar due to the operation of the bounty system is too dearly purchased by the injury which that system imposes on one class, namely, the agricultural population which is dependent on the sugar industry of the country.

"I wish to bring before the Council the actual facts of importations into this country so as to show to what an extent in recent years the importation of bounty-fed sugar has increased. I have before me the statistics of importation for the last twenty years stated in thousands of hundredweights. The facts are that for the first ten years the importation of sugar was about one million hundredweight; towards the end of that period it had risen to one million and a half hundredweight. By far the largest portion of this, almost the whole of it, was Mauritius sugar. European sugar hardly entered into the figures at all. In none of the first five years was there any European importation at all, and during the last five years there was an importation of 15,000, 10,000 and 11,000 hundredweight in three of the years concerned. After 1890, although the importation from Mauritius continued and rather increased, that is to say, moved up from about one million three hundred thousand to one million six or seven hundred, yet the importation from Austria and Germany vastly and suddenly increased. The year 1890-91 was almost the first year in which German sugar was imported, and in that one year 709,000 hundredweight were imported. The figures then fell off for a short time, but during the last three years, 1896-97-98, the amount which has been imported from Austria and Germany combined has been 874,000 hundredweight; then the year after that more than two million hundredweight, and in the ten months of this year more than a million hundredweight has been received. This is a very large and a very sudden increase, and I will mention the facts to which it is due. In 1897 the Government of the United States passed an Act, upon which the Bill now before the Council is framed, by which they imposed countervailing duties upon sugar. The effect of that Act was to cut out the bounty-fed sugar of Europe from the markets of the United States. The consequence was that that bounty-fed sugar was driven to find its market in India, and it found its market very suddenly and very abundantly. Hon'ble Members are no doubt aware that a couple of years ago the attention of Her Majesty's Government was drawn to the critical condition of the sugar industry in the West India Islands. They sent out to inquire into the subject a Commission of which two members were my own distinguished predecessor Sir David Barbour, and the Hon'ble Sir Edwin Collen's

distinguished predecessor Sir Henry Norman. They made a report in which they showed that the sugar industry of the West India Islands, upon which the commercial prosperity and even the administrative possibilities of the West Indian Colonies depended, was in an extremely critical state, and they attributed it all to the existence of the bounty system. Thereupon Her Majesty's Government took what they considered the only means of having the bounty system revised, namely, they proposed to call a Conference of the various European Powers in order to consider the whole question of bounties. At that time the Government of Belgium had had its attention drawn to the subject, and they met the invitation to Conference issued by Her Majesty's Government by stating that they had already taken measures to have a Conference of the Powers. This Conference took place in Brussels in the summer of 1898. It was a Conference which came to no practical conclusion. The proposals regarding the dropping of the bounty system were opposed for various reasons, mainly by France and Russia, but no practical conclusion was come to. The Conference separated on the understanding that the Government of the King of the Belgians would continue by diplomatic action to pursue its object. At the instance of the Calcutta Chamber of Commerce we had taken measures to have India represented by a member at that Conference, and Mr. Ozanne, who was a recently retired Civil Servant of the Presidency of Bombay, was the Indian representative. After the Conference separated we received a letter from the Chamber of Commerce of Madras, and also from the Chamber of Commerce of Upper India, in which they recommended that now, as the proposals of the Brussels Conference proved ineffective, we should at once take measures to impose a countervailing duty. Madras is to some extent an exporting Province, and it grows a fair quantity of sugar ; but Cawnpore, the seat of the Chamber of Upper India, is the centre of a most important sugar industry and is much more in touch with the subject and much more closely affected by it than any of the other Chambers. The Chamber of Commerce of Calcutta has also taken up the subject, and I find from their last annual report that they recommend the imposition of countervailing duties as the only alternative in the event of further negotiations regarding the abolition of bounties proving futile, and that a continuance of unrestricted importation will probably result in the closing of the remaining sugar refineries in the district of Jessore, a large number of which have already ceased to work.

"But I am a little in advance of the subject when I refer to the closing of the sugar refineries. I wish to show that it is not merely a matter of theory, but an ascertained fact that the sugar industry of this country has been very adversely affected.

"In India altogether about 3,000,000 acres are under sugarcane cultivation. Of this, 1,300,000 are in the North-Western Provinces and Oudh, 1,000,000 are in Bengal, and the remaining 700,000 are scattered over the other Provinces of India. It is obvious, therefore, that by far the most important Province from the sugar-producing point of view is that of the North-Western Provinces and Oudh. Now, we have obtained very full particulars of the recent condition of the sugar cultivation and of the sugar-refining industry in the North-Western Provinces, and I may at once say that the immediate effect upon cultivation has not been very great. Apparently the production has diminished, taking the whole of India, from about 3,000,000 to about 2,600,000, that is to say, a drop of about 13 per cent.; but there are many reasons why cultivation should not be immediately affected. In the first place, the natives of this country are extremely conservative in their habits and customs. It is very difficult to move them from the existing cultivation, and they will for a long time sustain loss in that cultivation before absolutely giving it up. Moreover, agriculture is largely carried on under advances for delivery of actual produce, and these obligations are obviously obligations which can only be carried out by continuing cultivation, so that the mere depression in the price of sugar does not make itself immediately seen in the reduction of cultivation. It will do so ultimately beyond a doubt. As regards refineries, however, we have strong evidence that the importation of bounty-fed sugar is causing very serious disaster. In a letter from His Honour the Lieutenant-Governor of the North-Western Provinces he tells us:—

"There has been a substantial decrease in the acreage under cane in those parts of the Province where the margin of profit on the cultivation is least, this decrease being probably due to the competition of bounty-fed sugar. Further experience is, however, required to arrive at certain conclusions in this respect.

'Foreign sugar does not as yet compete with *gur*, but it is now competing with refined sugar for home consumption, of which article it has seriously reduced the exports. It has also already caused the closure of numerous refineries, while it has seriously endangered the stability of others. The Director gives statistics showing that 120 refineries have stopped working, but his figures on this point are incomplete. He has since informed the Lieutenant-Governor that no less than sixty have been closed in a part of the district of Azamgarh alone, of which no account is taken in his memorandum.

'The price of refined sugar has been reduced about 12 per cent. in five years, and this decline has had a general lowering effect on all sugar prices.'

"He goes on to report also that—

'The information available points to the probability of the further cheapening of the production of bounty-fed sugar in the future, to its importation in increasing quantities, and to the further under-selling of the native refiners.

'It is of much more importance to these Provinces to preserve their sugar industry on the basis of present arrangements than to have a cheap foreign sugar supplied to the consumers of the refined article.

'There is no prospect of native processes being so improved that refineries could hold their own against the foreign competition assisted by bounties."

"I may mention that in the description of the condition of things in the North-Western Provinces we are not dependent upon the reports of the North-Western Provinces alone. For example, in reply to our enquiries, which we issued last September, we have a report from the Resident of Hyderabad regarding the sugar consumption in Berar. He says :—

'In 1893-94 the imports of refined sugar from the North-West Provinces were 27,702 maunds; in each subsequent year there has been a steady decline till in 1897-98 the quantity imported amounted to only 11,638 maunds, or considerably less than half the former quantity. A more than corresponding rise is to be observed in the imports of refined sugar from Bombay port; commencing at 50,158 maunds in 1893-94, the figure has now risen to 1,27,625 maunds, or more than 2½ times the former import.'

"So that, whether this sugar which had been imported in Bombay and Berar is bounty-fed or not, it is obvious that the conditions of the trade are at present such that a Province, which had formerly a large supply from the North-Western Provinces, has ceased to derive its sugar from there. The same is the case as regards the Punjab. The Government of the Punjab have not as yet sent us their report but they have sent us in anticipation of the report a telegram which I shall read. They say :—

'Imported sugar almost entirely superseding Indian refined sugar in towns. Consequently great falling off in imports of refined sugar from North-Western Provinces, previously the chief source of supply. Native sugar refineries are also gradually being closed. In the Punjab, cultivation, though not extending, has not fallen off, as the demand of the agricultural population, which is chiefly for unrefined sugar, is still sufficient to maintain prices at a level which renders cultivation profitable.'

"It will be seen, therefore, that the information which we have received as to the condition of the North-Western Provinces in respect of their sugar industry, whether we look at what has been said by the Government of the North-Western Provinces itself, or by the effect as observed from the outside by the Government of the Punjab and the Resident of Hyderabad who represents the Berars, is the same, namely, that the prospects of the industry in the North-Western Provinces are very much like the prospects which have been described by the Commissioners who were sent to investigate the matter in the

West India Islands. As regards Calcutta it may be sufficient for me to refer to the statement of the Chamber of Commerce in their last annual report—a statement which I have already quoted—

'In any case a continuance of the unrestricted importation of bounty-fed sugar would probably result in the closing of the remaining sugar refineries in the district of Jessore, a large number of which had already ceased to work.'

"I have some further information which I might lay before the Council regarding the falling off in the price of sugar which, of course, is the direct effect of the importation of the bounty-fed sugar and through which those deleterious effects I have been describing have been operating. The general falling off in prices during the last three years has been (at Cawnpore) a falling off of about one and a half rupees out of a price of about 11, 12 and 13 rupees per maund—a sufficiently serious falling off to necessitate the closing of the refineries, and, when the refineries are closed, there must, no doubt, follow a falling off in the cultivation. I think therefore the Council may take it as proved that we are in the presence of a real danger to an important industry; and I trust they are sufficiently convinced that the time has come when, if we are to protect our sugar industry in this country, which is extremely important, it is necessary for us to take measures against bounty-fed importations. Of course we might wait a little longer; we might wait till our refineries are still further closed, and till the raiyats are so impoverished as to give up cultivation altogether; but it is better in these matters, I think, to take protective measures beforehand, because it is far more easy to revive and encourage an existing industry than to restore one which has been by adverse circumstances extinguished.

"It is hardly necessary for me to touch upon the extent of bounties, or on their effect upon the trade of foreign countries. We are legislating only as regards India. But I would like to point out that the measure we are taking, or which I am asking the Council to take, is not necessarily a measure that condemns the action of foreign countries in putting bounties upon their sugar. We have only regard to our own internal concerns, and it may be perfectly possible for us even to approve the action of foreign Governments in putting a bounty upon their sugar and at the same time to take measures to prevent their having an injurious effect upon our own cultivation. I observe that the argument which the representative of France laid before the Brussels Conference as justifying the granting of sugar bounties in France was this. He said it is all very well for England to denounce sugar bounties. England is the mistress of the seas; she can look forward with confidence even to a state

of isolation arising out of war; foreign ports will still be open to her and her ports will be open to importation from foreign countries; but in the case of France it is exactly the opposite. If France is isolated and an enemy of France has command of the seas, then the result might be a very serious national disaster. It is the duty of the Government of France, as a mere question of national preservation, to take care that France shall be independent of foreign countries in the matter of her provisionment. If a certain quantity of sugar is absolutely necessary for the inhabitants of France, then the Government of France must take care that that amount of sugar shall be forthcoming within an area that is under her own command, and, if the cultivation under normal circumstances is not sufficient to produce it, it is legitimate for the Government, by the operation of bounties, to give sufficient encouragement to the internal cultivation of sugar. It is therefore a matter of internal administration. What I point out with regard to this is that we may quite agree with them. We are not bound in any way to denounce the system of bounties as a matter of internal administration of any foreign country. We only wish to protect our own industry, and we claim the same right to preserve our industry in this country as foreign nations no doubt claim to preserve and encourage the sugar industry and sugar cultivation in their own territories."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND introduced the Bill.

The Hon'ble SIR JAMES WESTLAND moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English. He said:—"The Bill, I may state, is in form a sufficiently simple one. It is copied in its wording from the Bill which is actually operative in the United States of America. We take power to impose, in addition to the ordinary tariff which is levied under the Tariff Act, a further duty equal to the amount of bounty which is granted by any foreign nation. The wording of the Act is in short the same as the wording of section 5 of the United States Act of the 24th July, 1897. In the United States they have a slightly different form of legislation from ours; that is to say, the Act itself imposes the duty, but lays down directions that the Executive shall prescribe rules for its assessment and regulations for the carrying out of the purposes of the Act. In thic case we have slightly modified the procedure, and we give the Government power to impose the necessary duties as well as to lay down these rules and regulations. I hope that the Act will be considered sufficiently simple to pass without being referred to a Select Committee, and it is the intention of the Government to pass it if

possible without its being examined by a Select Committee during the currency of the present session."

The Hon'ble MR. ALLAN ARTHUR said :—" I should like to say that I support this Bill. As the Hon'ble Sir James Westland has said, the Bengal Chamber of Commerce urged that legislation in this direction might be undertaken. It might be urged that if foreign Governments are generous enough to give us sugar under cost-price it would be rather foolish of us not to take the sugar on those low terms and grow something else on our sugar land. I think, as the Hon'ble Sir James Westland has pointed out, the interests of the producer in India are greater than the interests of the consumer, and as the unrestricted importation of beet sugar is likely to kill the sugar industry in India altogether, I think that legislation will be of great benefit to a great many people in India. With reference to the Hon'ble Sir James Westland's remarks with regard to the passing of the Bill this session, I should like to call his attention to one point, namely, that in putting the Bill into operation there may be cases of great individual hardship. I understood him to say that the probability was that the duty which would be imposed would be equivalent to the bounty that the foreign Governments give. I think it is highly improbable that the price of sugar will rise in India to the extent of the duty that will be imposed. I may say that there has been a very large quantity of beet sugar sold 'to arrive,' as it is called, in Calcutta, that is, shipment for months ahead, and if the price of sugar does not rise to the same extent as the amount of the duty, then I think the buyers of that sugar will probably be very heavy losers by this legislation, unless provision is made to avoid this; and I hope the Hon'ble Sir James Westland, in making arrangements to bring the Bill into operation, will consult the mercantile community in the matter."

The Hon'ble SIR JAMES WESTLAND said: "The Hon'ble Mr. Arthur was good enough to mention this matter to me before the commencement of the proceedings in Council. There is a provision in the Tariff Act as it stands which alters the terms of contracts in which the conditions as regards the payment of customs-duty have been altered by new legislation. I do not know if that would go far enough in giving relief in the cases to which the Hon'ble Mr. Arthur refers; but in legislation like that which I have just been announcing it is always difficult to enter into the matters of detail to which the Hon'ble Mr. Arthur has referred before taking up the general question, because it is necessary to keep our intentions secret pending preliminary consideration, and it is impossible therefore to consult people in regard to details. However, I hope to be able to

settle this matter in consultation with the Hon'ble Mr. Arthur, and possibly in consultation with the sugar merchants who represent the industry in Calcutta."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"I very gladly welcome this Bill. I consider it to mark a very important epoch by way of a departure in the fiscal legislation of this country. The reasons for my considering so I shall reserve for a future occasion, as the Hon'ble Financial Member has stated that very probably this measure will be brought up for discussion and determination during this session. I will at present only make this observation that even from the point of view of the consumer it is quite easy to shew that this measure will be a welcome one."

The motion was put and agreed to.

The Council adjourned to Monday, the 20th March, 1899.

H. W. C. CARNDUFF,
Offg. Secy. to the Govt. of India,
Legislative Department.

CALCUTTA;
The 16th March, 1899.

Government of India Central Printing Office.—No. 685 L. D.—16-3-99—70.—E. N.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Monday, the 20th March, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

The Hon'ble Maharaja Rameshwara Singh Bahadur of Darbhanga.

The Hon'ble Nawab Bahadur Sir Khwaja Ahsanullah, K.C.I.E.

FINANCIAL STATEMENT FOR 1899-1900.

The Hon'ble SIR JAMES WESTLAND introduced and explained the Financial Statement for 1899-1900. He said:—

"PART I.

"INTRODUCTION.

"In presenting my Financial Statement of March 1898 I alluded to the calamities of famine, war, pestilence, and earthquake which had fallen upon us during the year then closing, and I went on to refer to the promise of brighter times introduced by the abundant harvest of 1897. The recovery of the country has been more rapid than any of us anticipated at the time I allude to; another good harvest has been gathered, and although the plague still casts a shadow over the land, the general condition of the people as evidenced by the Returns of Trade and of Revenue is prosperous, and the famine of 1896 and 1897 is now little more than a memory, its effects being obliterated by the return of prosperous seasons. I cannot, however, pass from the subject without deriving from it one lesson which it seems to me to afford—namely, that the margin between prosperity and adversity in India must be a very narrow one, for if we have learned that one bountiful harvest suffices to restore the country after a widespread and severe famine, we have learned also that the failure of the seasonal rains in a single month of the year is sufficient to set back a full tide of prosperity; and that this is a possibility which in the administration of India, and in its financial administration especially, we dare not leave out of account.

"2. In the two calamitous years of which I told the history last March, namely, 1896-97 and 1897-98, I had to shew that the accounts of the Empire were in deficit to the aggregate amount of, as nearly as possible, seven crores of rupees (Rx. 6,988,100 since increased to Rx. 7,064,233). In the two succeeding years (those of which I present the estimates to-day) I am glad to say that this deficit has been, or will be, more than covered, for so complete is the reversal of last year's position that in passing from 1897-98 to 1898-99 we pass from a deficit of Rx. 5,359,211 to a surplus of Rx. 4,759,400, and in my Budget Estimates for next year I anticipate a surplus of Rx. 3,932,600. I lay these figures before the Council at the very commencement of my Statement, as I have no doubt they are anxious to know, as soon as possible, the general drift of the figures which I now proceed to explain in greater detail.

"Accounts of 1897-98.

"3 The Accounts of 1897-98 were, as usual, published in the first half of January, and the results then shewn compare as follows with the anticipations formed in March 1898:—

	Revenue.	Expenditure.	Deficit.
	Rx.	Rx	Rx.
Estimated in March 1898 .	96,561,500	101,844,600	5,283,100
Actual Accounts . .	96,442,004	101,801,215	5,359,211
Accounts { Better + / Worse — }	—119,496	+43,385	—76,111

"The differences on the whole were very small, as the accounts under each of the heads of Revenue and Expenditure closely followed the Revised Estimate. Indeed, had it not been that we determined after the close of the year to make certain grants (aggregating Rx. 88,100) to the Provincial Governments of Bombay and of Bengal in further reimbursement to them of their famine expenditure, the difference in the whole account between Revised Estimate and Actuals would have been only Rx. 12,000.

"Revised Estimates of 1898-99.

"4. In the Budget Estimate for 1898-99 I estimated the results of the year to be a surplus of Rx. 891,400. But we now find that mainly through abundant revenue, military economies on the North-West Frontier, and very favourable exchange, the result of the year will be a surplus, as I have already stated, of Rx 4,759,400. I shall explain afterwards that on a review of the financial position of the several Local Governments, whose balances have been exhausted by famine and plague, and who have still to meet pressing demands for expenditure while the expansion of their revenues has for a time been set back by the calamities referred to, we have decided to make them grants in aid of their resources, out of the surplus that has accrued to us on the Imperial account. The total amount of these grants is Rx. 700,000, and thus the surplus of the year is reduced from Rx 4,759,400 to Rx 4,059,400. The money may be described as expenditure brought to account by anticipation, that is to say, it goes at present merely to swell Provincial balances, and when actually spent on the purposes in consideration of which it is granted, it has not again to be charged against the surplus of the year, but passes through the Provincial adjusting entry.

"5. The detail of the differences between the Revised Estimates for 1898-99, as now presented, and the amounts taken in the Budget Estimates prepared twelve months ago are set out in the following statement:—

"Estimates of 1898-99.

	Budget.	Revised.	Revised Better.	Revised Worse.
ENGLAND.				
STERLING IN ENGLAND—				
Revenue . . . . . £	188,300	232,500	44,200	
Expenditure . . . . . £	16,474,800	16,323,700	151,100	
NET EXCHANGE ON ABOVE . . . . Rx.	9,120,500	8,045,600	1,074,900	
NET CHARGE .	25,407,000	24,136,800	1,270,200	
INDIA.	Rx.	Rx.	Rx.	Rx.
REVENUES IN INDIA—				
Land Revenue	27,568,200	27,679,400	111,200	
Opium	5,329,800	5,679,400	349,600	
Salt	8,728,000	9,047,200	319,200	
Other Principal Heads of Revenue . .	24,033,800	24,583,200	549,400	
Post Office and Telegraph (net) . . .	714,000	610,700	...	103,300
Departmental Receipts (*a*)	4,078,600	4,174,700	96,100	
Railways, Net Earnings	12,036,100	12,814,200	778,100	
Irrigation	3,228,100	3,461,700	233,600	
Military Works	50,300	54,200	3,900	
Army	833,000	835,200	2,200	
TOTAL REVENUES .	86,599,900	88,939,900	2,340,000	
EXPENDITURE IN INDIA—				
Direct Demands on Revenues—				
Opium	2,654,000	2,348,800	305,200	
Other heads	8,483,900	8,289,500	194,400	
Interest (*b*)	—1,128,900	—1,132,200	3,300	
Civil Departments	17,225,200	17,371,100	...	145,900
Famine Relief	85,100	44,600	40,500	
Protective Works and Reduction of Debt .	1,014,100	1,131,500	...	117,400
Railways, Charges against Net Earnings (net) .	4,951,700	4,881,800	69,900	
Irrigation	3,211,500	3,218,200	...	6,700
Military Works and Special Defences . .	1,135,800	1,113,700	22,100	
Civil Works	4,702,100	4,493,600	208,500	
Army (Ordinary Charges)	16,625,800	16,541,500	84,300	
" Warlike Operations	1,458,000	1,023,700	434,300	
	60,418,300	59,325,800	1,092,500	
Provincial Adjustment—				
Addition (+) or Deduction (—) made for increase or decrease of Provincial and Local Balances	—116,800	+717,900	...	834,700
Special grants to Provincial Governments .	...	+700,000	...	700,000
NET EXPENDITURE CHARGED AGAINST REVENUE IN INDIA	60,301,500	60,743,700	...	442,200
Surplus .	891,400	4,059,400	3,168,000	

(*a*) Including interest and receipts under Civil Works.

(*b*) This entry in the Indian portion of the accounts is a *minus* one, as the interest passed to the charge of Railway and Irrigation is greater than the whole amount of interest payable in India.

"6. The first point to note is that, except for a small falling-off under Stamps and Registration, every one of the Revenue heads shews better results than anticipated in the Budget Estimates. The improvement under Land Revenue is mostly in Burma and the North-Western Provinces. In Opium we have got much better prices in Bengal than we estimated for, namely, Rx. 4,164,000 against Rx. 3,900,000, and in Bombay the low rate of the pass-duty, as compared with previous years, has led to a revival of the export which last year shewed a very considerable decline. The increase in Salt Revenue, which now produces 9 crores against the 8½ which it gave us in the two famine years, is a satisfactory indication of the improvement in the condition of the people, and the Customs Revenue continues to increase as trade continues to flourish.

"7. Post Office and Telegraph shew a falling-off, due in the latter case partly to the cessation of hostilities on the North-Western Frontier, but chiefly to the more extensive use of deferred telegrams which are now delivered by hand, and in the former case to reduction of rates of postage. We calculate that by the increase, from one tola to one-and-a-half, of the unit of weight for inland postage we diminish the annual revenue by Rx. 60,000, and by adopting the Imperial Penny Postage (for India, one anna) we give up Rx. 40,000 A considerable portion of this last item will be recovered for us by an arbitration given in our favour, in respect of the distribution, between the English and the Indian Post Offices, of the subsidy charges payable to the Peninsular and Oriental Company and by reductions of the scale of charge in respect of continental transit.

"8. Under Railways—Net Earnings—we have received Rx. 778,100 more than we estimated, the important items being—

			Rx.
1.	North-Western	Better	410,000
2.	Great Indian Peninsula	Better	416,000
3	Bombay, Baroda and Central India	Better	210,000
4.	Rajputana-Malwa	Better	70,000
5.	Eastern Bengal	Worse	110,000
6.	Southern Mahratta	Worse	80,000
7.	South Indian	Worse	50,000
8	Madras	Worse	55,000
9	Assam-Bengal	Worse	31,000
	Net of the above	Better	780,000

"The improvement is due generally to large exports of grain consequent on good winter crops, and in one case to postponement of works of repair and renewal.

"The Plague is responsible for the falling-off on the Railways in Southern India.

"An inferior jute crop and the postponement of jute deliveries in Calcutta was the cause of the worse result on the Eastern Bengal State Railway, and inclusion in the Working Expenses of the revenue share of repairs of earthquake damages caused the reduction on the Assam-Bengal Railway.

"9. On the expenditure side, the first considerable improvement is under Opium, and is due to our failure to obtain as good a crop as we hoped. We have been able to recommence the building up of our Reserve, but the good season for which for many years we have waited has not yet come, and the produce still remains short of our standard. There has also been a considerable saving in the expenditure of the Salt Departments, and fair amounts in the other Revenue Departments. The Civil Departments shew the usual considerable savings in their Budget Estimates, but the amount has been more than swallowed up in the expenditure caused by Plague. The head "Medical" alone shews an excess over estimate of Rx. 327,800, most of which is in Bombay, and all of which for practical purposes falls on the Imperial Account, for the Provincial Governments are not able to bear the expenditure without assistance in the form of grants from Imperial.

"10. The Army expenditure in India (ordinary) is less by Rx. 84,300 than estimated in the Budget, and of the Budget provision of Rx. 1,458,000 in India for Warlike Operations only Rx. 1,023,700 has been spent, the Military authorities having, from the very beginning of the year, found it practicable to reduce the forces maintained on the North-West Frontier.

"Rate of Exchange.

"11. The rate of exchange taken for the purpose of the Budget Estimate last March was $15\frac{3}{8}$ pence (or rather £1 = R15·6), that being the rate actually realized in 1897-98. At the opening of the year 1898-99 the current rate was $15\frac{13}{16}$ or $15\frac{7}{8}$, but under the influence of a strong demand in April and May (in each of which months the Secretary of State sold two millions sterling of Council Bills) it quickly rose to 16 pence and over. This demand was due mainly to

unusually large exports of Rice, Wheat, and Seeds, the figures of which for the five principal months of export are shown in the following table:—

Exports (Value in Rupees) of Rice and Wheat (including Flour) and Seeds by Sea from British India during February to June 1896, 1897, and 1898.

		February.	March.	April.	May.	June.
Rice	1896	2,30,79,157	2,35,35,019	1,28,19,258	87,78,324	1,05,82,552
	1897	2,05,74,378	2,26,73,146	85,42,095	74,73,502	72,22,085
	1898	2,11,33,697	2,39,73,430	1,74,35,984	1,39,93,271	1,00,28,152
Wheat	1896	13,68,050	14,41,371	20,32,888	27,38,742	21,72,359
	1897	3,28,052	1,83,882	3,47,801	5,03,124	6,14,133
	1898	9,99,271	55,10,941	1,09,23,719	2,85,78,798	2,28,64,833
Seeds	1896	68,45,149	96,72,087	1,08,31,633	1,27,32,470	1,10,86,314
	1897	25,08,515	30,02,053	43,92,610	1,09,06,210	85,56,518
	1898	58,76,128	74,23,872	88,45,785	1,25,27,552	1,16,97,108
Total all three.	1896	3,12,92,356	3,46,48,477	2,56,83,779	2,42,49,536	2,38,41,225
	1897	2,34,10,945	2,58,59,081	1,32,82,506	1,88,82,836	1,63,92,736
	1898	2,80,09,096	3,69,08,243	3,72,05,488	5,50,99,621	4,45,90,093

"12. The position thus gained at the beginning of the year has never been lost, and the rate has continually fluctuated about 16 pence, now a little over it and now a little under it. In the latter half of the year the rate has never been below $15\frac{15}{16}$ pence. The drawings have now for some time stood at Rx. 700,000 a week, and we expect when the year closes to have remitted by Council Bills £19,000,000 equal to Rx. 28,540,000, giving, as nearly as possible, an average rate of sixteen pence. The Revised Estimates for 1898-99 are accordingly made up at this rate.

"13. For next year I have made the modest estimate of $15\frac{3}{4}d$. I fully anticipate we shall realize, as this year, something closely approaching to 16 pence, but our continual practice in India is to avoid sanguine estimating, and following this principle I am loth to take a figure which may have the taint of being, under existing circumstances, the best possible.

"14. It may be noted that not only are the remittances of the current year the largest on record (there being hitherto only one year, 1881-82, in which they exceeded £18 millions), but we have in addition to these remittances received in India in exchange for silver at the rate of Rs. 15 per £ sterling, Rx. 2,616,400 of gold which we now hold as part of the currency reserve in addition to Rx. 255,400 similarly held on 1st April 1898.

"Budget Estimates, 1899-1900.

"15. The Budget Estimates of Revenue and Expenditure for the coming year 1899-1900 made up at this rate of exchange shew a surplus of Revenue of Rx. 3,932,600 It will be best perhaps to explain the figures by comparing them with the Revised Estimate for the current year, as exhibited in the Statement in paragraph 5 above

"**Budget Estimates of 1899-1900 compared with the Revised Estimates of 1898-99.**

	Revised, 1898-99	Budget, 1899-1900	1899-1900, Better than 1898-99	1899-1900, Worse than 1898-99
ENGLAND				
STERLING IN ENGLAND—				
Revenue . . . . . £	232 500	207,100		25,400
Expenditure . . . . . £	16,323,700	16,531,600		207,900
NET EXCHANGE ON ABOVE . . . . Rx.	8,045,600	8,550,900		505,300
NET CHARGE .	24,136,800	24,875,400		738,600
INDIA				
REVENUES IN INDIA—	Rx.	Rx.	Rx	Rx
Land Revenue	27,679,400	27,641,900	...	37,500
Opium	5,679,400	6,003,700	324,300	...
Salt	9,047,200	8,757,200	...	290,000
Other Principal Heads of Revenue . .	24,583,200	24,414,400	..	168,800
Post Office and Telegraph (net) . . .	610,700	501,100	...	109,600
Departmental Receipts (a)	4,174 700	4,052,700	...	122,000
Railways, Net Earnings	12,814,200	13,382,600	568,400	
Irrigation	3,461,700	3,451,100	.	10,600
Military Works	54,200	50,900	...	3,300
Army	835,200	816,600	...	18,600
TOTAL REVENUES .	88,939,900	89,072,200	132,300	
EXPENDITURE IN INDIA—				
Direct Demands on Revenues—				
Opium	2,348,800	2,653,900	...	305,100
Other heads	8,289,500	8,622,900	...	333,400
Interest	—1,132,200	—1,319,800	187,600	...
Civil Departments	17,371,100	17,986,800	...	615,700
Famine Relief	44,600	5,700	38,900	...
Protective Works and Reduction of Debt .	1,131,500	1,123,900	7,600	.
Railways, charges against net earnings (net) .	4,881,800	5,218,900	...	337,100
Irrigation	3,218,200	3,333,900	...	115,700
Military Works and Special Defences . .	1,113,700	1,299,600	...	185,900
Civil Works	4,493,600	5,350,800	..	857,200
Army (Ordinary Charges)	16,541,500	16,873,400	. .	331,900
Warlike Operations	1,023,700	38,900	984,800	...
	59,325,800	61,188,900	...	1,863,100
Provincial Adjustment	1,417,900	—924,700	2,342,600	...
NET EXPENDITURE CHARGED AGAINST REVENUE IN INDIA	60,743,700	60,264,200	479,500	...
Surplus .	4,059,400	3,932,600	...	126,800

(a) Including Interest and Receipts under Civil Works.

" 16. Under Revenue heads in India the collection of arrears of Land Revenue still goes on, but we do not expect next year quite so much as in the current year. Under Salt and Customs we expect a slight advance over the Budget Estimates of 1898-99, but have not estimated to receive so great an advance over these as we shall certainly receive in the current year. The current prices of Opium warrant our estimating for a considerable increase in the revenue under this head.

" 17. Under Railways the estimates are for a small advance in net earnings. The details are as follow :—

	Budget, 1898 99	Revised, 1898-99.	Budget, 1899-1900
	Rx.	Rx.	Rx
State Railways—Gross . . .	19,382,600	19,695,800	20,237,100
Working Charges	9,770,500	9,876,600	10,047,000
Net . .	9,612,100	9,819,200	10,190,100
Guaranteed Railways—Net .	2,424,000	2,995,000	3,192,500
TOTAL NET .	12,036,100	12,814,200	13,382,600

"18. The Great Indian Peninsula Railway contributes Rx. 130,000, the Madras Railway Rx. 65,000, and the East Indian Railway Rx. 60,000 of the improvement shewn in Budget, and we expect the Eastern Bengal and Southern Mahratta Railways to recover from their low figures of 1898-99. The increasing mileage of the East Coast Railway will also bring in better returns; on the other hand, there are heavy renewals on the North-Western Railway to be provided for. Under Civil Departments we have to provide for considerable additions to Police expenditure (partly due to Plague); and we have also made fairly ample estimates for Plague expenditure, the charges under " Medical " in India being as follows :—

	Total	Including Plague Expenditure
	Rx.	Rx.
1894-95	1,003,438	...
1895-96 . . .	1,020,077	...
1896-97	1,065,158	19,000
1897-98 . . .	1,328,952	297,000
1898-99, Revised	1,542,900	508,900
1899-1900, Budget	1,678,100	354,200 + 209,500

" The last-mentioned Rx. 209,500 is shewn separately, because it is in the nature of a reserve in the " India" Section of the Accounts, and if actually spent, it will not pass under " Medical " in the Imperial Portion of the Accounts, but be dealt with as a transfer.

"19 We have increased the total provision for Military Works to Rx. 1,322,300, against expenditure in 1897-98 and 1898-99 of about Rx. 1,168,385 and Rx. 1,197,600, the purpose of the increase being to meet charges likely to fall upon us in respect of places of defence and similar works on the North-West Frontier.

"20. The Military Estimates shew large savings in India as compared with the current year, the India figures being—

	Ordinary Expenditure.	Warlike Operations	Total
	Rx.	Rx.	Rx.
1896 97 . .	17,243,137	18,206	17,261,343
1897-98 . . .	16,514,547	3,847,992	20,362,539
1898-99, Budget .	16,625,800	1,458,000	18,083,800
1898-99, Revised .	16,541,500	1,023,700	17,565,200
1899-1900, Budget .	16,873,400	38,900	16,912,300

"No Remission of Taxation.

"21. In view of the surpluses as shewn in the Revised and Budget Estimates, the Government of India have carefully considered the question whether they should propose, at present, any remission of existing taxation. The conclusion to which they have come is that any such proposal would be premature, and this mainly on two grounds. The first is that we have, as it were, to make up for arrears. As stated in my opening paragraph, we have had in the past two years deficits aggregating Rx. 7,064,233, and we ought to regard ourselves as under an obligation to recover our position by accumulating counterbalancing surpluses. The second and weightier reason is that we have in contemplation, as is well known, certain extremely important measures of currency reform, which are under the consideration of a Committee sitting at the India Office in London. Whatever the advice of that Committee may be, we consider we are bound to prepare for any measures that may result from it by preserving as strong a financial position as possible, and we consider we would act unwisely if we were to reduce our financial strength by remitting existing taxation and run the risk of finding ourselves, by our own action, less free than we would otherwise be to undertake any measures of currency reform that may seem desirable.

"Railway Construction.

"22. I have, in former Financial Statements, referred to the policy recently established of laying down a programme of Railway Construction for three years in advance. The first of these programmes was for the three years ending 31st March 1899. This programme was at first intended to include an expenditure of 27 crores of rupees, but was afterwards extended to 29⅔ crores. Latterly, however, financial difficulties have obliged us somewhat to curtail the

expenditure, and we expect to expend against the programme of 29⅔ crores the following amounts —

	Rs
In 1896-97 (actuals)	8,658,800
, 1897-98 („)	8,145,500
„ 1898 99 (Revised Estimate)	8 387,500
TOTAL	25,191,800

"23 I leave to my Hon'ble Colleague Sir A Trevor the task of stating in detail the results of the expenditure It is sufficient here to set them out in the most general form (the figures of the Railways of Native States and of other Railways that lie outside our accounts being omitted) —

	Standard Gauge.	Metre Gauge	Special Gauges	Total
March 31, 1896—				
Mileage open	10 430	6,842	36	17,308
„ under construction	1,490	1,086		2,576
TOTAL	11,920	7,928	36	19,884
March 31, 1899—				
Mileage open	11,728	7,522	36	19,286
, under construction	814	971	77	1,862
TOTAL	12 542	8,493	113	21,148

"24 I divide the Railway Construction in the present estimates, for convenience sake with reference to our accounts, into four categories, namely —

First—State Railway Construction, money found by Government, but also by debentures in the case of the East Indian and Assam-Bengal Railway Companies

Second.—Construction by Assisted and Working Companies out of funds raised by them or in some cases advanced by Government to them Also Branch Line Companies under a firm guarantee

Third.—Open line capital and new construction by the old Guaranteed Companies

Fourth—Construction by Companies outside the accounts of the Government, and also construction by Branch Line Companies on rebate terms.

"The above classification slightly differs from that of last year's Statement, as under new arrangements every portion of the above comes within the programme, except the fourth category, *viz.*, Company construction outside the accounts of Government, and Branch Line Companies not under firm guarantee.

"25. The Estimates of Capital construction for the two years 1898-99 and 1899-1900 now stand as follows, the figures for programme expenditure in the Revised Estimate of 1898-99 being modified so as to correspond with the new classification :—

	Revised Estimate, 1898-99.	Budget Estimate, 1899-1900.
	Rx.	Rx.
FIRST CATEGORY—STATE RAILWAYS—		
Funds available by Famine Grant .	695,400	490,000
Grant under—		
48.—State Railway Construction .	2,882,200	3,465,000
East Indian Railway Company's Debentures	1,573,800	750,000
TOTAL .	5,151,400	4,705,000
SECOND CATEGORY—ASSISTED COMPANIES	3,155,300	3,009,900
THIRD CATEGORY—OLD GUARANTEED COMPANIES	851,600	1,107,800
TOTAL "PROGRAMME" .	9,158,300	8,822,700
Add—FOURTH CATEGORY (outside programme)	1,470,100	950,300
TOTAL .	10,628,400	9,773,000

N.B.—The Chittagong Port Works connected with the Assam-Bengal Railway, shown in last year's Statement as Miscellaneous Public Improvements, are now included as "Railway Construction."

"26. Having now carried to a fairly successful issue this policy of temporary activity in railway construction, we think it wise, both from a railway and from a financial point of view, to curtail for a time the rate of progress of railway construction. The nine or ten crores a year sanctioned in 1897 was not meant to be permanently adopted, and we deem it desirable now to allow a short time for the earning capacity of the lines recently constructed to develop itself, before again undertaking special burdens in the direction of capital outlay upon railways.

"27. For these reasons we deemed it advisable to fix about 20 crores as the limit of our expenditure for the next three years; and a programme was accordingly prepared for expenditure as follows :—

	Rx.
1899-1900	6,772,700
1900-1901	6,728,400
1901-1902	6,821,000
TOTAL . .	20,322,100

but we have had to alter these figures for the following reason. In the Budget Estimates of 1898-99, we proposed to spend under the first three years' programme a sum of Rx. 10,788,900 in the year 1898-99, but the inability of the workshops in England to meet the demands which were made upon them by ourselves and the various constructing companies has reduced the expenditure of 1898-99 to Rx. 8,387,500. Many of the orders, however, will be completed and paid for in 1899-1900, and we have therefore to provide, under the new three years' programme, in 1899-1900 not only the intended Rx. 6,772,700, but a considerable amount in addition, which may be regarded as arrears of the old programme handed on to the new one. The amount estimated for is therefore Rx. 8,822,700.

"28. The following are the entries under the first category (State Railways) :—

	Revised, 1898-99.	Budget, 1899-1900.
Expenditure by State Agency—		
Open lines—	Rx.	Rx.
North Western	228,300	212,300
Oudh and Rohilkhand	95,700	72,800
Eastern Bengal	150,500	257,200
East Coast	60,000	40,000
Warora Colliery	—6,300	—2,100
Umaria Colliery	—7,100	—100,000
Stores transactions	—15,800	—7,500
TOTAL	505,300	472,700
Lines under construction—		
Rae Bareli-Benares	54,400	4,000
Bhatinda-Ferozepur Conversion	64,700	...
Mari-Attock	142,500	25,000
Jullundur-Hoshiarpur—(Land)	—100	...
Ghaziabad-Moradabad	238,000	332,600
Indus Bridge	108,400	35,000
Bezwada-Madras	669,200	30,000
Godavari Bridge	166,400	200,000
Lyallpur-Khanewal	90,200	75,000
Cooch Behar-Santrabari	30,300	12,500
Rajbari-Fareedpur	26,100	...
Shadipalli-Jodhpore Frontier	100,300	100,000
Rungpur-Dhubri including Teesta Bridge	46,100	211,500
Southern Punjab—Rolling-stock	202,800	2,700
Hurdwar-Dehra "	7,800	27,200
Brahmaputra-Sultanpur "	36,600	8,800
Mymensingh-Jamalpur "	40,700	9,400
Nowshera-Dargai	...	120,000
TOTAL	2,024,400	1,193,700

	Revised, 1898-99. Rx.	Budget, 1899-1900. Rx.
Expenditure by Agency of Companies—		
Open lines—		
East Indian including extensions	1,450,000	1,500,000
Rajputana-Malwa system	1,600	90,000
Tirhoot	157,000	40,000
Bhopal	5,400	10,000
Dhond and Manmad	5,500	16,000
South Indian	—200,000	50,000
Guntakal-Mysore Frontier	—400	...
Madras-Ennore	200	...
TOTAL	1,419,300	1,706,000
Lines under construction—		
Assam-Bengal: Land, Part I	22,000	20,000
Assam-Bengal: Construction, Part II	1,134,400	762,000
Assam-Bengal: Chittagong Jetties	46,000	18,000
Hajipur-Katihar Extension	250,000	200,000
Madura-Paumben	...	100,000
Tinnevelly-Quilôn	...	70,000
TOTAL	1,452,400	1,170,000
Lump deduction on account of probable lapse	250,000	...
Reserve	...	162,600
TOTAL FROM IMPERIAL FUNDS	5,151,400	4,705,000

"29. The items in the second category (Assisted Companies) are:—

	Revised, 1898-99. Rx.	Budget, 1899-1900. Rx.
Bengal-Nagpur	1,861,000	1,770,000
Indian Midland	203,000	165,000
Burma Railways	700,000	800,000
Bengal Central	78,100	40,000
Lucknow-Bareilly	15,300	6,900
Southern Mahratta	44,900	40,000
Mysore	35,000	20,000
Hardwar-Dehra	150,000	88,000
Bhramaputra-Sultanpur	68,000	80,000
TOTAL	3,155,300	3,009,900

"30. The estimate under the third category (old Guaranteed Companies) provides for :—

	Revised, 1898-99.	Budget, 1899-1900.
	Rx.	Rx.
Open Line Capital—		
Great Indian Peninsula	73,600	74,000
Madras	20,100	60,000
Bombay, Baroda and Central India . .	459,100	410,000
Extensions—		
Calicut-Cannanore	70,600	200,400
Amalner Palgaon-Chalisgaon Dhulia .	228,200	363,400
TOTAL .	851,600	1,107,800

"31. The principal projects classed under the fourth category and outside the "programme" are:—

	Revised, 1898-99.	Budget, 1899-1900.
	Rx.	Rx.
Bengal Dooars Extensions	40,000	200,000
Bengal and North-Western Railway Extensions	445,000	365,000
Tapti Valley	650,000	230,000
South Behar	204,000	77,500
Smaller Branch Lines	131,100	77,800
TOTAL .	1,470,100	950,300

"Capital Expenditure on Irrigation.

"32. The amount of Rx. 750,000 has hitherto been provided for expenditure on Irrigation. In 1899-1900 a further amount of Rx. 100,000 is provided under this head. The grant for 1898-99 which was of the usual amount, Rx. 750,000, has not been fully worked up to, owing chiefly to the approaching completion of the Chenab Canal and partly to it not having been found possible to start work on the Jhelum Canal in the early part of the year.

"33. The principal works under this head are at present —

	Revised, 1898-99 Rx.	Budget, 1899-1900. Rx.
Mandalay Canal	90,000	100,000
Fatehpur Branch of the Lower Ganges Canal	63,600	42,600
Chenab Canal	151,500	80,000
Jhelum Canal	36,200	210,000
Jamrao Canal	142,200	133,900
Other Projects	208,700	283,500
TOTAL	692,200	850,000

"Remittance and Debt.

"34. The following account shews in a shortened form the requirements of the Secretary of State, the figures are drawn up so as to shew separately the transactions on account of Government, and the transactions arising out of the operations of Railway Companies —

	Revised, 1898-99. £	Budget, 1899-1900 £
Requirements on Government Account—		
Excess of expenditure on Revenue Account	16,091,200	16,324,500
Expenditure not charged to Revenue	791,100	682,100
Net payments on Remittance Accounts, etc	225,400	268,800
Total Requirements	17,107,700	17,275,400
Transactions of Railway Companies—		
Net receipts on account of Capital	2,183,100	1,970,000
Payments for Stores, etc	2,718,000	3,181,700
Net Outgoings	534,900	1,211,700
Net Funds required	17,642,600	18,487,100

"35. The following figures shew the manner in which the above requirements have been or are to be financed —

	Revised 1898-99 £	Budget, 1899 1900. £
By Council Bills (net Remittance)	19,000,000	17,000,000
By addition to Permanent Debt	1,912,800	...
Less reduction of Temporary Debt	—1,500,000	...
By reduction of Cash Balance		1,487,100
Deduct—Addition to Cash Balance	—1,770,200	...
	17,642,600	18,487,100

"36. In last year's Financial Statement I mentioned that the Secretary of State intended, besides renewing £6,000,000 outstanding temporary debt, to raise £6,000,000 permanent debt. This amount was raised in July in the form of India 2½ per cent stock, but it was issued at a considerable discount (namely at a rate of £88 10*s.* 5*d.* per cent), and produced only £5,297,700 in cash. With the money he discharged permanent debt to the extent of £3,384,900, so that the net amount raised by addition to sterling debt was £1,912,800. The Secretary of State has decided that the discount on the loan, *viz.*, £702,300, shall not be charged upon the revenues of the year, but shall be discharged by a Sinking Fund at the rate of interest borne by the loan, *viz.*, 2½ per cent, lasting over 50 years. There are already one or two Sinking Funds of the kind in connection with the sterling debt; £12,622 being the total charge appearing in the Accounts of 1897-98. The amount added by the new Sinking Fund is about £7,000.

"37. The heavy drawings of the year, by Council Bills, enabled the Secretary of State to improve upon his intention of renewing the £6,000,000 outstanding temporary debt, and he renewed only £4,500,000 of it. The remainder of the excess of drawings went towards increase of the Cash Balance, which is estimated to stand, on 31st March 1899 at the unusually high figure of £4,304,400.

"38. For next year, 1899-1900, the Secretary of State estimates to draw £17,000,000 by Council Bills, and though he does not estimate for any increase or decrease in either permanent or temporary debt, he considers that in view of the high balances which his Estimates, both Revised and Budget, show, he may find it possible to pay off some of the outstanding temporary debt.

"39. In March last we estimated that we would have to raise a rupee loan of Rx. 3,000,000 in India, but as the time approached for our doing so, we found both that improved revenues had added to our resources, and the market was not favourable for so large a loan. We therefore limited our proposed loan to an amount of Rx. 1,200,000 under 3½ per cent conditions, and this amount was raised on August 24th at an average rate of R94 12½ annas per cent. The price remained about this figure for some months, but has recently advanced to over par.

"40. We reckon that in India we shall be able next year to meet all the demands upon our Treasuries without raising any new debt, but it must be understood that all these announcements about the amount of contemplated remittances and loans are subject to the usual reservation of entire liberty to the Secretary of State to alter his plans as he may find occasion.

" PROVINCIAL FINANCE, 1892 to 1899.

(The tabulated figures in this part are hundreds of Rs., that is, two ciphers are omitted.)

" 41. The progress of Provincial Finance is easiest studied by considering separately:—

First.—The amount of net Revenue, of which a definite portion settled by the terms of the "Contract" is at the disposal of the Provincial Government for its expenditure on Civil Administration.

Second.—The modification of this Provincial share of net Revenue, caused by special arrangements, different in each Province, in connexion with certain portions of Irrigation and Railway Administration, involving in some cases a small net outlay and in some a small net revenue.

Third.—The appropriation of the funds thus obtained towards the Provincial Expenditure, and especially the relation between the increase of expenditure and the increase of available funds.

" 42. The first figures to be set out are, therefore, the totals of the net revenues, that is, the revenues less expenditure directly charged against them. They are as follow, the figures being quite independent of any considerations as between Imperial and Provincial:—

" *Total Ordinary Revenues*—

	Contract, 1892.	1892-93.	1893-94.	1894-95	1895-96.	1896-97.	1897-98.	1898-99, Revised.	1899-1900, Budget.
Central Provinces .	1,248,6	1,244,0	1,231,2	1,171,3	1,252,9	1,089,5	1,048,5	1,322,9	1,398,7
Burma (a) . .	3,643,3	..	...	...	...	...	3,948,2	4,147,0	4,012,8
Assam . . .	814,0	842,9	962,5	992,1	1,003,4	1,015,3	995,8	1,047,3	1,047,3
Bengal . . .	7,081,6	7,325,2	7,445,8	7,606,9	7,714,8	7,823,5	7,835,9	7,998,8	8,058,9
North-Western Provinces and Oudh .	7,677,8	7,716,1	7,778,9	7,589,1	7,866,2	6,655,6	7,264,8	8,419,1	8,470,1
Punjab . . .	3,060,1	3,133,8	3,261,1	3,223,5	3,290,5	3,224,3	3,409,8	3,561,8	3,530,4
Madras . .	6,817,1	7,106,2	7,469,2	7,645,6	7,719,3	7,478,8	7,863,2	8,015,5	7,988,0
Bombay (b) . .	5,412,1	5,489,1	5,646,1	5,550,6	6,018,2	5,367,0	5,625,2	5,950,2	5,943,0

(a) The figure against Burma in the column "Contract, 1892" represents the Contract of 1897.
(b) The figures relating to alienated Land Revenue, an entry peculiar to Bombay, are omitted from both sides.

"43. The next statement shews the portion of these revenues which, according to the Provincial contract in each case, is credited to Provincial Account. The figures stand as follows, and it may be noted that the revision of the contract made with effect from 1897-98 onward, was such as to cause little change in the total of the Provincial share, except in the two Provinces of Bengal and Madras where it was reduced by Rx. 90,000 and Rx. 130,000 respectively, and in the North-Western Provinces where it was increased by about Rx. 120,000, namely, the cessation of a temporary reduction of Rx. 50,000, and a direct addition of about Rx. 70,000. (The figures are as they stand before the addition of the contributions from Imperial entered at the end of the table in paragraph 47 and the special grants-in-aid and expenditure therefrom of which mention is made in paragraphs 65 and 66 below) :—

" *Provincial Share of Revenues*—

	Contract, 1892.	1892-93.	1893-94.	1894-95.	1895-96.	1896-97.	1897-98.	1898-99, Revised.	1899-1900, Budget.
Central Provinces .	653,3	652,5	647,2	623,3	619,6	598,9	566,1	713,1	750,8
Burma (a) . .	2,604,1	...	...	..	...	.	2,768,5	2,891,8	2,822,5
Assam . . .	477,1	507,3	549,7	556 4	566,9	575,9	564,3	626,0	626,3
Bengal . . .	2,767,1	2,899,4	2,941,4	3,049,2	3,102,6	3,100,9	3,552,1	3,517,5	3,549,3
North-Western Provinces and Oudh . .	2,235,8	2,254,4	2,284,9	2,218,7	2,309,8	1,959,7	2,101,5	2,719,2	2,729,1
Punjab . . .	1,382,6	1,414,0	1,451,2	1,440,0	1,476,8	1,483,5	1,571,3	1,631,2	1,611,6
Madras . .	2,368,7	2,491,0	2,587,9	2,653,5	2,676,7	2,627,1	2,588,5	2,655,7	2,632,4
Bombay . .	2,404,4	2,451,5	2,490,8	2,481,2	2,601,2	2,405,4	2,475,9	2,554,9	2,569,7

(a) The figure against Burma in the column " Contract, 1892 " represents the Contract of 1897.

" 44. I offer some comments on these two statements, shewing them in parallel columns :—

	Total Imperial *plus* Provincial.	Provincial Share Only.
Central Provinces.	Fairly continuous progress—a small drop in 1894-95 due, as the details shew, to failure of Land Revenue—Recovery in 1895-96. Then a serious loss of Revenue in the two famine years 1896-97 and 1897-98. But complete recovery in the early future is anticipated.	The Province obtained in the earlier years little or no margin of revenue beyond that allowed for in the Contract of 1892, and in the famine years there was very great loss as compared with that standard. If the anticipations for 1898-99 and 1899-1900 are realized, it will be very fairly off.

	Total Imperial *plus* Provincial	Provincial Share only
Burma	No figures are here shewn for the years preceding 1897 98, the accounts having been completely changed in that year by the incorporation of Upper and Lower Burma as a single Province of account The revenue is considerably in excess of that which was taken as the standard for the framing of the Provincial Contract of 1897 The falling off in 1899-1900 is under "Forests," and may perhaps be due only to cautious estimating	Revenue considerably in excess of the standard taken for the contract
Assam	Revenue steadily progressive The effect of the earthquake in 1897-98 is shewn only in a slight slackening of the rate of progress	Has all along enjoyed a considerable excess of revenue—at present nearly 30 per cent (Rx 170 to 190 thousands) over the contract figure of 1892 But of this amount Rx 33,000 represent a special addition made to meet the South Lushai expenditure transferred to Assam
Bengal	Also shews a steady progressive revenue Owing presumably to the famine the progress from 1896-97 to 1897-98 was rather less than in other years The falling off was mainly under 'Excise,' as Land Revenue in Bengal is little subject to variation in consequence of famine	The accounts of the Province were greatly affected by the withdrawal from the Province in 1897 of the extremely progressive revenue of the Eastern Bengal Railway the share of Revenue substituted therefor not being so progressive Combining the ordinary revenue and the Railway account the figures stand thus — Standard of 1892 . 2,806,3 1892-93 . 2,962,4 1893 94 . 3,011,0 1894-95 . . . 3,193,2 1895-96 . 3,235,7 1896 97 . . . 3,328,0 1897-98 . 3,297,8 1898-99 3,238,7 1899-1900 . 3,267,0 which certainly may be called fairly progressive, the figures of the last two years being due in part, it may be hoped, to caution in estimating The new contract, commencing from 1897-98, involved a reduction of about Rx. 90,000 in the Provincial share

	Total Imperial *plus* Provincial.	Provincial Share only
North-Western Provinces.	A fairly progressive revenue till the famine year, then a tremendous falling-off in Land Revenue (1896-97). Partial recovery in 1897-98 and in the following two years very high figures due to recovery of famine arrears.	The unequal operation of the Irrigation account and the change effected in it in 1897 renders it necessary to combine the figures for this Province as in the case of Bengal. They stand thus— Standard of 1892 . . 2,215,4 1892-93 . . . 2,265,2 1893-94 . . . 2,314,5 1894-95 . . . 2,234,1 1895-96 . . . 2,170,3 1896-97 . . . 2,160,2 1897-98 . . . 2,432,4 1898-99 . . . 2,641,5 1899-1900 . . . 2,632,2 The story of these figures is shortly this,—At first a little improvement over the standard taken for settlement. In 1895-96 a failure of irrigation revenue, 1896-97 famine, and consequent failure of revenue. Thereafter the rapid recovery of the Province and the realizations of famine arrears of revenue bring in ample resources. The new contract, commencing from 1897-98, increased the assets by about Rx. 120,000.
Punjab .	Steady progress as reckoned over the whole period, but a slight set back in the famine year.	The same as in the other column.
Madras .	Shews a very progressive Revenue, the advance being only temporarily interrupted by famine.	Rapid increase of revenue up till the famine year—from that time figure fairly steady, but not advancing. The Provincial share from 1897-98 onwards would stand about Rx. 130,000 higher but for the revision of contract which came into operation from that year.
Bombay .	An increase up to the famine year, then a considerable set back which has not yet been fully recovered.	The same remark as the first one in the case of Madras.

"45. The sets of figures which I next shew are those relating to the Irrigation and Railway portion of the Provincial contracts, which I have described as coming in in modification of the amount of ordinary revenue otherwise at the disposal of the several Governments. The amount of modification thus imposed has, except in two cases, only slightly changed during the period under review, and the figures are, therefore, of no great importance except in the cases referred to, namely, Bengal and the North-Western Provinces, and these have been dealt with above:—

"*Railways and Irrigation Accounts*—

	Contract, 1892.	1892-93.	1893-94.	1894-95.	1895-96.	1896-97	1897-98.	1898-99, Revised	1899-1900, Budget
Burma . .	—125,0	...	...	...	...	..	—116,5	—130,5	—157,0
Assam . .	—9,5	—13,0	—10,5	—9,3	—10,2	—13,9	—14,2	—22,4	—9,5
Bengal . .	+39,2	+63,0	+69,6	+144,0	+133,1	+167,1	—254,3	—278,8	—282,3
North-Western Provinces and Oudh . .	—20,4	+10,8	+29,6	+15,4	—139,5	+200,5	+330,9	—77,7	—96,9
Punjab . .	+2,0	—23,5	—6,2	—5,7	+5,1	+6,1	+9,3	+7,8	+8,0
Madras . .	—313,9	—409,1	—360,7	—219,0	—324,8	—396,6	—297,5	—310,9	—313 9
Bombay . .	+5,1	—41,4	—15,6	—1,2	+3,7	—2,2	+7,7	+5,9	+8,7

* The figure against Burma in the column "Contract, 1892" represents the Contract of 1897.

"46. The next step is to examine the expenditure of the various Governments and observe how far they have kept the increase of it within the limits imposed by the increase of revenue. I shew separately the ordinary expenditure and the direct expenditure upon famine and plague.

"47 The details are as follow, and the figures have to be compared with the general statement of available resources in the right column under paragraph 44 above —

"*Expenditure Account*—

	Contract, 1892	1892-93	1893-94	1894-95	1895-96	1896 97	1897-98	1898-99, Revised	1899 1900, Budget
Expenditure excluding Plague and Famine—									
Central Provinces	653,3	674,3	707,9	679,6	673,0	688,7	764,4	706,0	701,9
Burma*	2,479,1						2,419,9	2,460,4	2,755,5
Assam	467,6	478,0	567,7	558,5	542,2	587,4	675,7	707,6	671,7
Bengal	2,806,3	2,972,1	2,974,1	2,993,4	3,115,9	3,295,2	3,302,0	3,141,6	3,272,0
North-Western Provinces and Oudh	2,215,4	2,281,9	2,339,7	2,349,9	2 342,2	2,485,8	2,513,7	2,401,7	2,586,9
Punjab	1,384,6	1,496,6	1,467,7	1,459 1	1,489,0	1,522,4	1,486 7	1,558,5	1,621,0
Madras	2,054,8	2,216,6	2,193,4	2,212 1	2 327,6	2 383,9	2,286 8	2,266,3	2,331,2
Bombay	2,409,5	2,433,6	2,455,7	2,526,5	2,560,2	2,588,9	2,605,4	2,534,6	2,604,7
Plague and Famine Expenditure (Provincial)—									
Central Provinces				6,4		2	5,8	18,3	17,5
Burma				...			62,7		
Assam									
Bengal		1	...	...		219,4	299,0	15,6	5,0
North-Western Provinces and Oudh	...	..		2	17,9		21,4	19 8	20,8
Punjab	..		..	...		31 3	96,2	18,0	10,0
Madras	...	24,4	2		2	47 2	161,9	20,7	64,1
Bombay	...	4	...		...	35,4	191,5	354,8	126,4
Provincial Balances apart from grants-in aid by the Imperial Government—	*1st April 1892-93*								
Central Provinces	205,4	183,6	122,9	17,8	37,4	—52,6	—256,7	—267,9	—236,5
Burma	..	...		..			481,6	782,5	692,5
Assam	135,9	145,2	116,7	89,3	119,8	94 4	—31,2	—135,2	—190,1
Bengal	235,3	225,5	262,4	432,2	582,0	395,4	92,2	173,7	163 7
North-Western Provinces and Oudh	512 4	495,7	470 5	304,5	164 7	—160 9	—263,6	—43,6	—19,1
Punjab	277,1	171,0	148,3	121,5	116 4	52,3	50,0	112,5	100,5
Madras	419,1	260,0	293,6	386,0	400 1	229 5	71,8	129,6	52,8
Bombay	407,0	383,1	402,6	300,1	400,8	179,7	—133,6	—462,2	—614 9
Contributions from Imperial in aid of Provincial Balances—									
Central Provinces		..	...		...	52,6	204,1	..	
Assam	..		...			..	80,0	81,0	.
Bengal	...	..	..		...		...	20,0	...
North Western Provinces and Oudh	...	...	..	..	...	160,9	102,7	..	...
Madras			...			.		517	641
Bombay	..	...	...		...	...	183 6	278,6	126,4

* The figure against Burma in the column "Contract, 1892" represents the Contract of 1897.

"48. *Central Provinces.*—The expenditure up to the famine year rose 2 or 3 lakhs (Rx. 20,000 or 30,000) above the standard of 1892; and since, as already observed, there was no margin of revenue, this resulted in the exhaustion of the a mple balance, Rx. 205,400 with which the Province started. The strain of the famine year reduced the balance (apart from direct famine expenditure) still further to a deficit of Rx. 52,600 in 1896-97, and a further deficit of Rx. 204,100 in 1897-98, both of which were made up by grants from the Imperial Exchequer. The Province started in 1898-99 without any balance at all, and it is now expected that there will be a deficit in the year of Rx. 11,200, which must again be made up by a grant from Imperial Revenues. In 1899-1900 its estimated expenditure is well within its means.

"The Province has taken practically no share of the cost of famine, which has been entirely Imperial—Rx. 1,640,245.

"49. *Burma.*—Has not spent up to the rate of its increase of revenue, and has in consequence an ample and increasing balance. It is arranging now to expend part of the amount in meeting certain demands for Provincial Public Works, and has also made other proposals for expenditure on the public services.

"50. *Assam.*—Had a comfortable balance, all along, of 10 lakhs (Rx. 100,000) more or less, keeping its increase of expenditure well up to, but not in excess of, its increase of revenue. The repair of earthquake damages imposed heavy charges in 1897-98 and 1898-99, which have largely exhausted the Provincial balance of Rx. 94,400 and absorbed also a grant of Rx. 160,000 by the Government of India; the balance being reduced for 31st March 1899 to about Rx. 25,000. In 1899-1900, after providing for absolutely necessary expenditure for Public Works and for the repair of earthquake damages, the estimates shew a deficit of Rx. 54,900.

"The expansion of ordinary expenditure has been very considerable during the period under review.

"51. *Bengal.*—The revenue of this Province, as above shewn, has afforded a margin for expansion of Provincial expenditure—namely, Rx. 2,806,300 in 1892 to (say) Rx. 3,300,000 in 1899-1900. The expenditure, however, was kept well in hand, so that the balance increased from Rx. 225,500 in March 1893 to Rx. 582,000 in March 1896. But this high balance sank to Rx. 92,200 two years later, as Rx. 518,400 out of it were spent in direct famine and plague charges. The ordinary expenditure in the two years now under estimate is taken at Rx. 3,141,600 and Rx. 3,272,000, which may be regarded as within the means of the Province, though it leaves a small deficit on the estimates of 1899-1900.

"The Imperial Exchequer incurred famine charges in Bengal up to a total of Rx. 576,821 (about half of the total), but did not otherwise contribute by grants-in-aid to the resources of the Province.

"The Province of Bengal has not had much plague expenditure to bear out of its own account, but we have made to it in 1898-99 a grant-in-aid of Rx. 20,000 which it will distribute to those Municipalities and Local Bodies whose funds have been most severely affected by expenditure on plague.

"52. *North-Western-Provinces.*—The Province had the advantage of starting in 1892 with a large balance still remaining on the credit side, but the rate of its annual expenditure was in excess of its annual revenue (having been found by reduction of balances), and when in the year before the famine a very favourable monsoon caused a failure of irrigation revenue (an important item in North-Western Provinces finance), the Province found its balance on March 31, 1896, reduced below the stipulated minimum of 20 lakhs (Rx. 200,000), and, as already said, a rate of current expenditure in excess of its current revenue by between 10 and 15 lakhs. During the strain of the famine year nothing could be done to amend this state of things, and the balance was overspent by Rx. 263,600, the amount being accordingly made up by grants-in-aid out of the Imperial Exchequer in the two years 1896-97 and 1897-98.

"Under these circumstances, the Province contributed nothing towards the direct famine expenditure, the whole of which, Rx. 2,064,025, was found out of Imperial resources.

"For 1898-99 it stands, as explained, without any balance to its credit, and its estimates stand as follows:—

	1898-99. Rx.	1899-1900. Rx.
Revenue Accounts	2,641,500	2,632,200
Expenditure Accounts	2,421,500 (*a*)	2,607,700 (*b*)
Results	+220,000	+24,500

(*a*) Includes Rx. 19,800, Plague. (*b*) Includes Rx. 20,800, Plague.

"The handsome surplus which comes in in 1898-99 is due to the recovery by the North-Western Provinces of the arrears of the revenue due in 1896-97 and 1897-98, in compensation for the loss of which Imperial made the grants-in-aid of Rx. 263,600 above alluded to. In the coming year, 1899-1900, the Government, North-Western Provinces, propose to increase their scale of expenditure all round to a rate which they will not be able to maintain after the arrear collections (which add some lakhs to the present scale of revenue) are exhausted and the revenue falls back to its ordinary amount.

"In anticipation of this surplus of 1898-99 and 1899-1900 it was stipulated that the benefit of these arrear collections was (*quoad* the Provincial share) to be considered as not applicable to current expenditure, but to be reserved (to the extent of 75 per cent of it) for building up the exhausted Provincial balance. The Government, North-Western Provinces, have fulfilled this pledge, and are now appropriating these arrears to a temporary increase of expenditure bearing in mind the impending diminution in the amount of their annual income as compared with the figures of 1898-99 and 1899-1900.

"53. *Punjab.*—The Province has all along proceeded on fairly prosperous lines. The balances which were continually diminishing before the famine year are now on the rise, and the expenditure is within the amount of revenue available. The Province escaped any severe share in the calamities of 1896 and 1897, and the Imperial expenditure on famine was less than 3 lakhs (Rx. 30,000), the Province itself contributing about 12 lakhs (Rx. 120,000) or, including "Local," nearly 16.

"54. *Madras.*—The expanding revenues of this Province have carried it through its period of disaster. It contributed moderately, that is, a total of a little over 20 lakhs (Rx. 200,000), towards its famine expenditure, the Government of India having undertaken all the rest (*viz.*, Rx. 732,995) so as to leave the Province with an opening balance of Rx. 71,800 in 1898-99 The Government of India further propose to make a grant to Madras of the amount of direct famine and plague expenditure incurred by it in 1898-99, namely, Rx. 20,700, and to estimate for next year a similar grant of Rx. 64,100. They also grant a further sum of Rx. 30,000 in 1898-99, placing the amount at the disposal of the Local Government for grants-in aid to such Municipalities and Local Bodies as have been most affected by plague expenditure. With its famine and plague expenditure thus made up the Province shows a fair surplus on its transactions of 1898-99, and a small deficit in 1899-1900.

"The detailed figures are:—

	1898-99. Rx.	1899-1900. Rx.
Revenue Accounts	2,655,700	2,632,400
Deduct—Railway and Irrigation Account	310,900	313,900
Net available Revenue .	2,344,800	2,318,500
Proposed Expenditure, excluding Plague and Famine . . .	2,266,300	2,331,200
Plague and Famine	20,700	64,100
TOTAL .	2,287,000	2,395,300

"55. *Bombay.*—The continuous advance of the expenditure of the Province while the advance of the revenue was entirely set back by the famine year, has brought a strain upon the finances, irrespective of the direct effect of famine and plague expenditure. The figures may be set out as follows :—

	Revenue Account as modified by Irrigation and Railway figures.	Ordinary Expenditure Account.	Excess of Expenditure.	
	Rx.	Rx.	Rx.	
1892 standard	2,409,500	2,409,500		
1892-93	2,410,100	2,434,000	6,200	
1893-94	2,475,200	2,455,700		
1894-95	2,480,000	2,526,500		
1895-96	2,604,900	2,560,200		
1896-97	2,403,200	2,588,900	185,700	
1897-98	2,483,600	2,605,400	121,800	
1898-99	2,560,800	2,534,600	26,200	(Excess of Revenue.)
1899-1900	2,578,400	2,604,700	26,300	(Excess of Expenditure.)

"The above figures exclude all direct Famine and Plague expenditure, and shew that the revenue and expenditure were in equilibrium for the first four years of the period under review, but that in the next two (the years of calamity), by reason of the falling-off in revenue, without an intermission of the increase in expenditure, the Provincial balance had to bear a reduction of Rx. 307,500.

"The actual condition of the account till the end of 1897-98 was as follows :—

		Rx.
Balance, March 31, 1892		407,000
Reduced by excess of ordinary expenditure—	Rx.	
1892-93 to 1895-96	6,200	
1896-97	185,700	
1897-98	121,800	
		313,700
		93,300
Further reduction by direct famine and plague expenditure not included in the above—		
1896-97	35,400	
1897-98	191,500	
		226,900
Net over-expenditure of balance till 31st March 1898		133,600
Cancelled by general grant-in-aid in 1897-98 of		183,600
Leaving credit balance on 31st March 1898 of		50,000

"The Revised Estimates for Bombay for 1898-99 show:—

Revenues Account	2,554,900	Surplus on ordinary account Rx. 26,200.
Irrigation and Railway Account	+ 5,900	
Expenditure Account, excluding Plague and Famine	2,534,600	
Plague and Famine Expenditure	354,800	

"56. Putting the figures of the various provinces together, the following shews the facts up to March 31, 1898:—

Statement in Rx.	Famine and Plague Expenditure (direct). From Imperial sources.	From Provincial and Local sources.	Grants-in-aid by Imperial to Provincial.
Central Provinces	1,640,245	8,820	256,700
Burma	54,975	63,336	...
Assam	..	...	80,000 (a)
Bengal	576,821	553,951	...
North-Western Provinces	2,064,025	...	263,600
Punjab	27,502	157,920	...
Madras	732,995	228,601	...
Bombay	1,242,760	27,887	183,600

(a) For earthquake.

"57. The Government of Bombay, both in respect of its Provincial account and in respect of its Municipalities, have been very hardly pressed by plague expenditure. They have submitted to us an examination of the financial condition of their principal Municipalities, and we have agreed to their giving out of their general revenues relief to their Municipalities to the extent of Rx. 228,078, of which the greater part goes to the City Corporation. Including this grant from their revenues, the Government of Bombay will have spent in direct charges o famine and plague—

	Famine. Rx.	Plague. Rx.	Total. Rx.
1896-97	24,000	11,400	35,400
1897-98	...	191,500	191,500
1898-99	24,800	330,000	354,800
Total			581,700

"Out of the expenditure of the first two years, aggregating Rx. 226,900, the Provincial Government have met out of their ordinary revenues Rx. 43,300, and the balance Rx. 183,600 has been made up by special contributions by Imperial; in the same way its balance of Rx. 50,000, and Rx. 26,200, its surplus of

1898-99, fall far short of the charges Rx. 354,800 of 1898-99, and it is necessary for the Imperial Government to make a further grant-in-aid of Rx. 278,600 leaving the province, on April 1899, with an opening balance of *nil*. The total direct expenditure on plague and famine which has been borne by the province comes to Rx. 43,300 in the first two years and Rx. 76,200 in the last, or Rx. 119,500 in all.

"It is anticipated that Rx. 126,400 of Plague expenditure will be incurred in Bombay in 1899-1900, and an equal amount of grant-in-aid from Imperial to Provincial has been estimated for in that year.

"58. The grants shewn in the above paragraphs may be regarded as grants in the ordinary way of business, that is, grants made on the principle that in any case of extreme calamity, when Local aid has been exhausted, the charge must fall, as far as possible, on Provincial resources, and when they are exhausted the Imperial Government must bear the burden; and I think a liberal interpretation has been given to this Imperial responsibility, for we have taken over the direct Provincial expenditure on famine and plague of the two Provinces most affected by plague, without insisting upon their first defraying any part of it out of their own balances, and it is our desire at present to go still farther. On one or two past occasions, when Imperial finances have been subjected to great stress, we have called upon the Provincial Governments to give us aid out of their resources, and under present circumstances, when Imperial finance by the recovery of exchange and from other causes is prosperous, and Provincial finance has been sore smitten by the consequences of famine and plague, we consider that a portion of our surplus cannot be better employed than in restoring the financial condition of the various provinces and relieving them from the financial difficulties which accompany the emergence from a state of famine and plague, so as to enable them to carry on their ordinary administration and meet their ordinary administrative necessities.

"59. In the case of Bombay, though, as above described, we have made large grants towards the direct expenditure on famine and plague, yet the effect of these two calamities is still shewn in the falling-off in revenue and in indirect expenditure (on police and the like) which accompanies plague measures. We propose on these considerations to make to Bombay a grant of Rx. 150,000.

"60. Bengal has not been affected by plague expenditure to anything like the same extent as Bombay; but, on the other hand, its finances have suffered from the very large extent to which the famine expenditure was met from Provincial and Local resources. We propose to make to it a similar grant of Rx. 150,000. This is in addition to the assistance already undertaken to be given from Imperial sources towards the European General Hospital at Calcutta, and also in addition to Rx. 20,000 mentioned in paragraph 51.

"61. In Assam the only immediate difficulties arise in connection with earthquake damages. Towards this we have already given Rx. 160,000, and the Chief Commissioner has asked for Rx. 67,500 more. We propose now to close this account by a grant of Rx. 100,000.

"62. The accounts of the Central Provinces are weighted only in respect of the very small balance it at present possesses, and the Estimates of 1898-99, as already stated, produces a deficit of Rx. 11,200; we propose to make it a grant of Rx. 50,000.

"63. The claim of Madras arises mainly in respect of the fact that, at the last revision of the Provincial contracts, a larger resumption of revenue was made from it than from any other province. We propose to make a grant to it of Rx. 100,000, besides the above mentioned grants for the Famine and Plague expenditure, namely, Rx. 50,700 in 1898-99 and Rx. 64,100 in 1899-1900.

"64. Burma in our opinion requires no assistance, nor, if we make a strict reckoning, do the North-Western Provinces or the Punjab. But the expenditure in these two provinces has been limited by the consideration of their general financial position, and they have also had to bear some expenditure, both direct and indirect, upon plague. We propose to give to the former a grant of Rx. 100,000, and to the latter a grant of Rx. 50,000.

"65. All these amounts will be granted in the accounts of the year 1898-99, and the same amount (less the excess expenditure in the Central Provinces, Assam, Bengal, Madras, and Bombay already provided for by the Provincial Governments in their estimates) will be entered in the Estimates of 1899-1900 as expenditure out of Provincial balances under the head of Civil Works,—not as an invitation to the several Local Governments to expend the amounts in that year, but as a permission to them to do so (by re-appropriation or otherwise), if on a consideration of their general financial position and of the necessity of keeping a balance in hand, they deem it advisable. The amounts thus entered include in the case of Bengal and Madras the payments they may make against the grants of Rx. 20,000 and Rx. 30,000 referred to in paragraphs 51 and 54. The Provincial Governments should, however, bear in mind that the grants now made are grants made once for all, and that it will be dangerous for them to take them as warranting any expenditure of a recurring character; also that the Government of India in making the grants admits against itself no liability to make good to Provincial Governments the loss or expenditure incurred by them in respect of the kinds of expenditure to which it has had regard in assessing the distribution of the grants; but admits merely that as in times of Provincial financial prosperity it has called upon the provinces to come to the aid of the general exchequer, so in times of Imperial financial prosperity it is reasonable and

expedient that it should depart from a strict interpretation of its financial relations to the Provincial Governments and aid them when at the same time they have had, and have, special financial misfortunes pressing on them. Perhaps I may refer in this connexion to paragraphs 127, 128 and 129 of Major Baring's (Lord Cromer's) financial statement of 1883.

"66. These several free grants, as they may be called, are specially entered in the figures attached to the Financial Statement and are in addition to those entered at the end of the statement in paragraph 47. They are:—

	Rx.
Central Provinces	50,000
Assam	100,000
Bengal	150,000
North-Western Provinces	100,000
Punjab	50,000
Madras	100,000
Bombay	150,000
TOTAL	700,000

"67. We have made fairly ample provision next year, namely, Rx. 126,400 in connection with the estimates of Bombay, Rx. 64,100 in Madras, and Rx. 209,500 not yet appropriated, for expenditure on combating the plague, which we may not unlikely have to meet in the future out of Imperial resources as we have done in the past. But we are not prepared, in a general way, to pay, out of Imperial resources, all the direct expenditure which the plague may cause, or to relieve Municipalities and other Local Bodies from the burden which necessarily falls upon them in respect of sanitary and medical expenditure caused by the approach or the advent of plague. Still less can we undertake to make up to Provincial Governments the excess expenditure which may have to be incurred under Police or in the other ordinary departments of Provincial Administration, or invite them to deal with ordinary administrative demands upon them with the same freedom which might be possible and even advisable, were we not all in the presence of a threatening calamity that necessitates our husbanding our resources as far as is possible.

"TWENTY YEARS' FINANCE.

"68. Following up a purpose which I set before myself in last year's Financial Statement, I published, contemporaneously with the Finance and Revenue Accounts of last year, a summary of these accounts for the twenty years ending March 31, 1898. The summary was necessarily a statement of figures only, with no attempt at criticism, and I desire here to give some continuous account of the results which the figures shew, and explain where our

Revenue and Expenditure have during these twenty years increased or decreased The plan I adopt is to take one set of figures as the standard of the Revenue and Expenditure at the beginning of the period (or rather, say, for the year 1879), and another set as representing the standard for 1896 (that is, before the famine burst on the land) These seventeen years may be taken as a period of practically continuous financial history

"69. For the first of these two standards I take the average of the figures of 1878-79 and 1879-80 If we eliminate the war figures of these two years, which in a comparison such as the present ought to be excluded, we obtain the following figures —

		1878 79. Rx	1879-80 Rx
Surplus or Deficit		+ 2,134,098	− 1,227,893
War Expenditure, India		600,109	4,591,644
" England	£	76,110	174,480
Surplus if war be excluded		2,810,317	3,538,231

But we have still further to modify these figures by reason of the fact that they did not provide for the full famine liability of Rx 1,500,000, the Famine Insurance being at the time in suspense, owing to the heavy war expenditure This consideration adds Rx 1,187,177 and Rx 1,396,353 to the expenditure and reduces the surpluses to Rx 1,623,140 and Rx 2,141,878, or an average of Rx 1,882,509

" That is, if we exclude consideration of war expenditure, and if we take Rx 1,500,000 as the proper annual measure of famine liabilities, we had in 1879 a surplus of revenue of Rx 1,882,500

" 70 To find the similar figure for 1896, I take the figures of the Budget of that year which may be taken as expressing the standard of Revenue and Expenditure at the time They are as follows, namely —

		Rx
Revenue in India (Budget)		97,316,800
Expenditure, England, net (Budget)	£	15,735,300
Exchange (according to rate actually realized)		10,222,300
India (Budget), less Rx 20,000 war		69,368 500
Add—Amount wanting to make up Rx. 1,500,000 Famine Insurance		500,000
Total		95,826,100
Surplus of Revenue		1,490,700

"71 We have therefore, comparing the standard of 1879 with that of 1896, a slightly worse position in the latter of the two years I have made a careful analysis both of the increase of Revenue and of the increase of Expenditure between the two years, and I find it to be as follows —

"Imperial Account.

	Rx.	Rx	Rx
Increase of Revenue under Salt, Customs, Tributes and Miscellaneous	...	3,810,000	
Imperial Share of Increase of Revenue under Revenues provincially administered		5,429,400	
Increase of net Revenues under Post Office, Telegraph, and Mint	.	457,400	
Improvements under Debt Services, Railways, and Irrigation (excluding consideration of exchange) .	6,327,500		
Deduct—Loss by exchange charged against Railway Liabilities	2,608,300		
		3,719,200	
Famine Insurance reduced in account by transfer to the preceding head of charges for interest on Indian Midland and Bengal-Nagpur Railways .	...	401,500	
Cessation of Railway Construction out of Revenue .	...	845,800	
Total available Improvement	...	...	14,663,300
Absorbed as follows :—	Rx.	Rx	Rx.
Deterioration of Opium Revenue .	...	3,679,800	
Addition to charges for exchange (Rate diminished from 19 85 pence to 14 45 pence)	7,337,300		
Deduct—Amount taken to Railway Account	2,608,300		
		4,729,000	
Deficit on Civil Administration of Upper Burma .	.	455,300	
Army Services net Charges increased from Rx 16,693,700 to Rx 22,167,800 (irrespective of exchange) .	..	5,474,100	
Charges under "Political" increased from Rx 427,100 to Rx 898,700 .	.	471,600	

Civil and Miscellaneous charges in India increased from Rx. 1,189,200 to Rx. 1,541,300	352,100		
Less—Savings by decrease under Assignments and Territorial Pensions and Stationery . . .	223,800		
		128,300	
Sterling Expenditure other than Army, Debt Services, and Railways increased (excluding exchange) from £2,486,400 to £2,920,200 . .	...	433,800	
Total .	...	...	15,371,900
Excess of demand over available means	..	...	708,600

"Provincial Account.

Increase of Provincial share of Revenue under Revenues provincially administered (*a*)	...	4,102,700	
Increase in net charges for Provincial Civil Administration from Rx. 14,374,900 to Rx. 18,160,800	...	3,785,900	
Balance of increase of Revenue not absorbed	...	...	316,800

(*a*) That is, ¼ of Land Revenue and of Excise: ½ of Assessed Taxes, Forest, and Registration: ¼ of Stamps.

"The deterioration on Imperial Account, Rx. 708,600, lessthe improvement on Provincial Account, Rx. 316,800, gives a net deterioration of Rx. 391,800, namely, a reduction in the surplus of Revenue from the standard of Rx. 1,882,500 in 1879 to that of Rx. 1,490,700 in 1896.

"72. This list shews that the resources made available by increased revenue and careful administration have practically been absorbed by (1) Loss of Opium Revenue, (2) Increase of Exchange Charges, (3) Increase of Military Expenditure, (4) Increase of Political Expenditure, (5) Increase of Provincial Expenditure, *i.e.*, of charges of Civil Administration, (6) Net Charges on account of Upper Burma.

"73. On the first two of these no remark need be made here; they are misfortunes we have had to accept. The last may also be passed over without remark; the occupation of Upper Burma was a measure forced upon us by political necessity, apart from any question of finance. The Province will, we trust, shortly meet the expenses of its civil administration, but naturally it does not as yet fully pay its way. The other three heads call for special explanation.

"74. The subject of Military Expenditure is too vast to be entered on in detail A general explanation of its increase was given by Sir Henry Brackenbury in the Budget Debate of 26th March 1896 and by Sir Edwin Collen on the same date in 1897. In respect of their military charges the Government of India feel the same necessity which presses upon all other Military Powers, and which has imposed upon even the most pacific nations increased burdens. Both our military system in its details and our general military and defensive policy are closely linked with those of England; and we cannot escape the necessity of increasing our defensive expenditure in the same way, though not perhaps to the same extent, that England does.

"75. In illustration of this point I present the following figures; the English ones are taken from the Statistical Abstract of the United Kingdom, 1882 to 1896, pages 10 and 11:—

	Defensive Expenditure, United Kingdom (a.)			Defensive Expenditure, India (b)
	Army.	Navy.	Total.	Army and Military Works.
	£	£	£	Rx
1882-83 .	15,133,451	10,259,853	25,393,304	16,928,587
1883-84 .	16,095,326	10,728,781	26,824,107	18,079,134
1884-85 .	18,600,338	11,427,064	30,027,402	16,955,165
1885-86 .	17,027,084	12,660,509	29,687,593	17,340,369
1886-87 .	18,429,272	13,265,401	31,694,673	19,413,293
1887-88 .	18,167,196	12,325,357	30,492,553	20,548,766
1888-89 .	15,919,738	12,999,895	28,919,633	20,305,140
1889-90 .	17,345,812	13,842,241	31,188,053	20,511,504
1890-91 .	17,550,023	14,125,358	31,675,381	20,821,160
1891-92 .	17,258,900	14,150,000	31,408,900	22,570,532
1892-93 .	17,541,700	14,302,000	31,843,700	23,705,932
1893-94 .	17,939,700	14,048,000	31,987,700	23,537,693
1894-95 .	17,899,800	17,545,000	35,444,800	23,966,973
1895-96 .	18,459,800	19,724,000	38,183,800	23,976,714
1896-97 .	18,269,800	22,170,000	40,439,800	24,384,447

(a) Excluding Expeditions and Naval Defence Fund.
(b) Excluding Special Defences and the following Expeditions: (1) Egypt, (2) Quetta, (3) Burma, (4) Chin-Lushai, (5) Chitral.

"76. The result of these figures is to shew that while the Defence Expenditure in the United Kingdom has increased by 59 per cent, that in India has increased by only 44 per cent, even including the increase due to the fall of exchange,

which affects Indian Military Expenditure in a special degree, owing to the large proportion of it that is measured by a sterling standard. The statement of expenditure in the United Kingdom is free from disturbance by this cause; while, on the other hand, the increase of Indian expenditure includes Rx. 2,526,000 directly due to this cause alone; and if this amount were excluded, the percentage of increase would be reduced to 29.

	£
Net English Expenditure . .	4,000,000
British Soldiers' pay . . .	1,590,000
TOTAL .	5,590,000
	Rx.
Difference of exchange 19·85*d* and 14·45*d*.	2,526,000

"77. The two most recent measures causing considerable increase of Military Expenditure were the raising of the pay of native soldiers in 1895, and of that of British soldiers in 1898. The former of these concessions had been delayed on financial grounds for a length of time which all our military advisers considered to be open to objection. The second measure, the increase of British soldiers' pay, is the result of the determination of Her Majesty's Government on a question of general imperial policy.

"78. Under the head of Political Expenditure, the increase measured by percentage is even more considerable; in amount it is Rx. 471,600. A few remarks will shew that this increase has been caused solely by the necessities of external policy. Two-fifths of the whole amount arises from the one item of Rx. 180,000 for the subsidy of His Highness the Amir of Afghanistan; and the Afghan Refugees cost at least Rx. 60,000 more. The period under consideration, moreover, has witnessed the rise and development of the Baluchistan Agency, which now accounts for Rx. 130,000 of the outlay charged under this head, the appointment of an Agent on the Perso-Afghan Frontier (Rx. 13,000); the occupation of the Gilgit and Chitral Frontier (Rx. 16,000); and considerable new expenditure, say, Rx. 40,000, in controlling the tribes and employing levies along the North-Western Frontier. The head "Political" contained also in 1896 Rx. 14,000 expended on the African Coast of the Gulf of Aden (the corresponding revenues are under Miscellaneous), and the scheme of Imperial Service Troops has caused a further increase of Rx. 22,000.

"79. I pass to the figures shewn against Provincial (including Local) net expenditure, which has increased during the period under review from Rx. 14,374,900 to Rx. 18,160,800. These are the charges of Civil Administration generally, and under such heads increasing outlay is not only justifiable but inevitable, in every country in which civilization is not stationary or retrograding. The system of Provincial finance is based on the theory that the increase in the Provincial share of the Revenues can be set aside for increase of expenditure upon Civil Administration, and that, if the increase is kept within this limit,

we have by this limitation, under ordinary circumstances, sufficiently taken into consideration the financial difficulties arising from falling exchange, from the necessities of Military and Political Expenditure, from wars and famines. We proceed, therefore, on the assumption that there is no objection to the Provincial share of the normal growth of Revenue being, as fast as it accrues, spent on administrative improvements. As has often been pointed out, a Provincial Government can do nothing with its money except spend it; it cannot, for example, utilize a surplus for remission of taxation.

"Conclusion.

"80. The statement which I have laid before the Council exhibits, I think, a very favourable condition of Indian Finance. Some of these favourable elements are, I admit, temporary only, and due in a large measure to a specially active trade, others however are permanent and betoken the return of the prosperity and progress which I noted in my statement of March 1896, and which were so rudely interrupted by the outbreak of famine. The plague, though it is a great anxiety to both Imperial and Provincial Administrations, is, financially speaking, well within our power to cope with, and as the first responsibility for the measures taken in connexion with it rests with the Provincial Administrations, I have been particular to examine the position of the Provincial Financial Accounts, and trust that the measures of relief and assistance sanctioned by the Government of India and set out in the statement will enable them to face the difficulties in which they are placed, though I take for granted they do not claim relief from their share in the anxieties which are inseparable from financial administration in India.

"I have the authority of His Excellency the President to state that the Budget Debate will be taken next Monday, and I would ask Hon'ble Members that if they desire to have any explanation regarding any figures alluded to in the Financial Statement they will find Mr. Risley and myself quite ready to give it. I hope they will ask for any information they may desire to have."

"The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN said:—"I have laid upon the table a memorandum explaining the Army and Marine Estimates. If in the course of the next week any of my Hon'ble colleagues desire information on the facts and figures contained in that memorandum, I shall be very glad to supply it, if they will indicate to me the point or points upon which that information is desired."

The Hon'ble SIR ARTHUR TREVOR said:—"I have only to repeat, on behalf of the Public Works Department, what my Hon'ble colleague Sir Edwin Collen has just said, in regard to the Army and Marine Estimates. If any Hon'ble

Member has any question to ask with regard to the Public Works Department Statement which is appended to the Financial Statement, I shall be very glad to give any information that may be desired between this and next Monday"

INDIAN BANKRUPTCY BILL.

The Hon'ble MR. CHALMERS presented the Report of the Select Committee on the Bill to amend and consolidate the law of Bankruptcy and Insolvency in British India. He said —"What the Committee have done is this. They have considered this Bill, which has been pending for a very long time, and they have come to the conclusion that its provisions are too complicated for application to India, and they recommend that the present Bill now before the Council should be dropped."

GLANDERS AND FARCY BILL.

The Hon'ble MR RIVAZ moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Glanders and Farcy be taken into consideration. He said —"When introducing this Bill I explained that its main object was to enlarge the powers of Inspectors appointed under the Glanders and Farcy Act in respect of entering into, and inspection of, stables and other places, with a view to the seizure of diseased horses The only material alteration in the Bill which has been proposed by the Select Committee is that provision has been made for enabling Local Governments to prescribe the application of the *mallein* or any other tests which may be discovered from time to time before the Veterinary Practitioner decides whether a horse is or is not diseased, but we have retained the provision of the present Act which compels the immediate destruction of any horse which is certified by the Veterinary Practitioner, after he has completed his examination, to be suffering from glanders or farcy. I do not think that I need make any further remarks on the Bill."

The motion was put and agreed to

The Hon'ble MR. RIVAZ moved that the Bill, as amended, be passed.

The motion was put and agreed to.

INDIAN TARIFF ACT (1894) AMENDMENT BILL

The Hon'ble SIR JAMES WESTLAND moved that the Bill to further amend the Indian Tariff Act, 1894, be taken into consideration. He said:—

"When I moved on last Council day for leave to introduce this Bill, I was careful to explain it solely with reference to Indian conditions. There is one part of the subject to which I did not then refer, but to which I shall now take the opportunity of referring. His Excellency the Viceroy has received a memorial from the sugar-planters of Mauritius. These sugar-planters are very naturally dismayed at the prospect of their being reduced by the operation of the bounties given in the countries of Europe to the conditions in which the sugar-industry is in the West India Islands. It is with reference to that that they make an appeal to the Viceroy to have legislation passed in this country of the character which is now before the Council I think that the days are passed when under the pretence of absolutely free trade no consideration was given to any circumstances arising outside the country concerned. We now do admit a certain obligation to other countries, and especially to those with whom we are knit by the Imperial tie. We are especially interested in the sugar-cultivation of the Mauritius by reason of the fact that that sugar-cultivation is carried on very largely by labour imported from India. The greater part, I believe, of the inhabitants of the Mauritius are Indians, and as such are entitled to some measure of protection from this Council. The petition of the sugar-planters and merchants commences as follows —

'The cultivation of sugarcane and the manufacture and sale of cane sugar are practically the sole industries of the inhabitants of Mauritius, and their welfare and even their livelihood depend upon the remunerative sale of the sugar produced.

'The sugar industry directly or indirectly gives employment and the means of subsistence to a population of about 380,000, of whom more than 260,000 are Indian immigrants or immediate descendants of natives of India.

'These Indian immigrants have come to Mauritius with the sanction and under the control and protection of the Imperial and the Indian Governments, secured by laws suggested, approved or imposed by both Governments, and therefore the Imperial and Indian Governments are jointly responsible with the Government of Mauritius for the welfare and means of subsistence of themselves and their descendants'

"That perhaps carries things too far. However, as I pointed out, the sugar-cultivation in Mauritius is one which gives employment to a very large Indian population, and if our legislation, based as it is on interests which are purely Indian, and refer to this country alone, also helps to preserve the means of sub-

sistence to such a large number of Indian immigrants, I think I may bring it before the Council as one additional reason in support of the Bill which was introduced last Council day. I am glad to think from the public notices which I have seen of the legislation now before the Council I am not called upon to defend it. It has been generally approved of, and I think my proper course is to wait in case objections are made to it before I say anything further in its defence."

The Hon'ble MR. MEHTA said:—"I confess I should have preferred that this Bill had been allowed to run the usual course which Bills in this Council run. I should have preferred if the Bill had been referred to a Select Committee. I say this for two reasons. In the first place, it seems to me that the matter is not quite so simple as my Hon'ble friend Sir James Westland said in introducing the Bill He has placed certain materials before the Council, but it seems to me that a certain amount of further investigation and verification is absolutely essential before the conclusions drawn by him can be accepted. It is true that a certain number of sugar-refineries in the country have been stopped, but I am not quite sure that the facts placed before us necessarily point to the importation of bounty-fed sugar as the sole or main cause of that result. It seems to me that further enquiry and investigation and verification of some of those figures and statistics should be really made before we commit ourselves to the legislation which is sought for. The second reason I have is that the matter is not so urgent as not to allow time for the appointment of a Select Committee. I quite admit, as the Hon'ble Sir James Westland has pointed out, that we must not wait until the sugar-industry in this country is destroyed, but I do not think he has made out a case for such urgency as to justify the course he has adopted in not referring the matter for consideration to a Select Committee. For these reasons it seems to me that it would have been more desirable if the Bill had been referred to a Select Committee."

The Hon'ble MR. GANGADHAR RAO MADHAV CHITNAVIS said:—"My Lord, I wish only to make one remark, and that is to express my cordial concurrence in the proposal which has been submitted to the Government by the Hon'ble the Finance Member. The existing state of things with regard to the sugar-industry of India is such that it is impossible to tolerate it any longer. The bounty-fed beet-sugar has nearly driven away cane-sugar from our markets, and one by one the raiyats are giving up cane-cultivation. And once a raiyat has given up cane-cultivation, he has practically done with it for ever. For it should be borne in mind that the raiyat plants canes and preserves

their cuttings immersed in water for the next year's cultivation. A raiyat who has failed to preserve these cuttings has either to purchase them— if at all procurable—at an enormous cost or to give up cane-cultivation altogether. Thus, should the existing state of things be allowed to continue, a time might come when the cultivation of cane will disappear altogether from this country.

"In the same manner the date-sugar having been driven away from the market by the bounty-fed beet, it is said that the raiyats in Bengal have ceased to grow date-trees. And, that being the case, it is apprehended that the manufacture of sugar from date-juice might disappear from Bengal in the course of a few years.

"When the indigenous manufacture of date and cane sugar has been thus destroyed in India, the European Governments will, of course, discontinue the bounty which they now give to the beet-sugar. What is more, the European manufacturers themselves will then be in a position to sell their inferior sugar at their own price. When things have been brought to this pass, it is likely that the Indians will make an effort to revive the cultivation of date and cane. But the European Governments referred to above might then resume the practice of giving bounty to the beet-sugar and thus once again destroy the sugar-industry of India. It will thus be seen that the only way of saving this purely agricultural country from a serious disaster is to levy a countervailing duty on all bounty-fed sugar.

"Of course it would be absurd to expect unanimity of opinion on such a measure as the Sugar Bill. There are people, well-meaning people too, who I know view it with alarm as being repugnant to the principles of free trade. But free trade can never prevent us from initiating legitimate measures of self-defence. In my humble judgment it is the first duty of the Government of India to consider the interests of the people of India; and it is from that point of view that I look at this question; and, looking at it from that point of view, I can have no doubt that the course which the Government of India have determined to take is a just and right one, for the initiation of which the people will feel most grateful to Your Lordship."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"At the first blush, it may look as though we are flying in the face of free trade principles. But, in reality, we are doing nothing of the kind. If our action were abnormal, it is only directed against steps which are themselves abnormal and which, while inflicting deeper and deeper injury on us, seem to admit of no other cure, in

order to safeguard what are of vital interest to us. But, in truth, are we embarking on anything abnormal? In my humble judgment, we do no such thing.

"If the sugar whose importation is proposed to be subjected to countervailing duties were the outcome of natural resources and of normal conditions, it may perhaps be arguable whether, on commercial grounds, an exception could be taken to it on the ground of irreparable loss to us. It may be equally arguable whether, on commercial grounds, it is expedient to stem, by artificial means, a torrent which—as unerringly as does water—must find its proper level sooner or later. But the sugar in question is unnaturally produced. It is made capable of being sold as cheap as it is now, only by reason of bounty which bolsters it up—be that bounty in the shape of a prior advance by the States to stimulate manufacture or be it in the shape of remission or refund of taxation after the commodity has been produced, in order to quicken its circulation in the Indian and other unprotected markets, for the up-keep or welfare of which the bounty-giving Governments make no sacrifice or have no concern. Noting the tendency it has created to alarmingly diminish the cane-cultivation in extensive tracts, solely and wholely devoted to it in this country, and the dreaded certainty of danger that our sugar manufactories will have soon to shut shop and pass out of their present prosperous existence, the day is not distant when locally-made sugar is sure to be a thing of the past or be relegated to the limbo of our other and numerous extinct industries. When that bitter cup is full to the brim, the imported sugar will increase by leaps and bounds, rule our markets absolutely without a rival, and its owners may dictate their own terms or drive the hardest bargains. Let us suppose—and the supposition is by no means unnatural—that the bounties which now prop up the manufacture in the foreign countries are withdrawn—be it from caprice or because no longer necessary or because wiser counsels prevail. The result will be that a well-established and thriving industry would have been, in the meantime, brought (at best) to the brink of ruin. The capital and labour, which are now working with excellent results, would be diverted from the production of commodities of extensive local consumption and sent adrift in problematic search of tentative re-investments in a spirit of timid experiment or hazardous enterprise, so foreign to the genius, nature and habits of the people of this country. It is easy to realise what will be the fate of even the present consumer when reduced to a condition of sole or virtual dependence on the tender mercies of that foreign producer. Viewed in this light alone, the present Bill is fraught with good to the consumer as well as the producer in this country. This is not all. I think, that, unless, indeed, we rigidly define the term 'consumer' as an intensely and sordidly selfish being, the word has a wider significance in this country where spontaneous charity is enjoined on every individual as an inviolable and meritor

ious religious duty towards the poor and helpless within the fold, common to them and him. If, then, the consumer should regard himself, not merely as living for himself and his immediate kith and kin, but as one acting for and acted upon by the common good of his community, as distinguished from other communities, he could not help taking a far more comprehensive view of his position. He would then conceive his well-being as part and parcel of the well-being of the rest of his community and welcome some amount of hardship and sacrifice on his part without murmur. If, again, the present consumers are of the well-to-do classes as asserted, our position is all the more strong, for we must bear in mind that they must then realise a near and repeatedly-recurring future when they must come in, for their share of contribution, either in the shape of additional taxes or of large charities, in case the hosts of cane-growers and sugar-makers of the day are thrown out of employ or reduced to a state of starvation—as is but too likely in this land of periodic famines—and are thereby cast on their hands or on the State, which is the same thing. Having regard to their inherited nature or to this eventuality, which—be it repeated—is by no means improbable, the effect of this Bill, even if it should cause a rise in the price of sugar they use, would be to lay men of comparative competence under a species of indirect taxation for the benefit of their poor brethren, which they will not and ought not to grudge. These are among my reasons for advocating this measure with perfect loyalty to free trade doctrines.

"There is another ground—not an altogether inapt ground—in favour of this Bill. It is this, namely, that it is calculated to dispel the notion—more or less widespread and more or less groundless—that free trade has ruined the indigenous industries—a notion which cannot but lend an undesirable colour to the opinion entertained about the effects of the British rule. I regard it, therefore, not only as inaugurating an era in the fiscal legislation of the country and as being welcome on that account and on its own merits, but also as dispelling the above erroneous notion. There is no doubt, that with the advent of British sovereignty, the reign of free trade has synchronised in this country; and, with that reign, a taste has set in for British articles of clothing which began to flow in unchecked. But the truth ought not to be disguised that such is, after all, the fault of the altered tastes rather than of free trade. Certain new ideas of the decencies and comforts of life, which have followed in the wake of the civilization of the West, have weaned not a few from their old and traditional ways, but free trade, as such, has had nothing to do with that result. Exigencies that have arisen in consequence may have, as I think they did, intensified the result, but it is difficult to see how that result could be helped or could be said to have been originated by it. For every one man or woman who fell in

with and adopted the Western fashions, there are tens, if not hundreds, who have adhered to their old ways, in a perceptible degree. It is therefore illogical to say that because a large number of the well-to-do and the seekers of the fashion of the day have utilised the Western articles, the articles themselves or the natural facilities for their influx should be denounced or proscribed. Giving free trade the fullest swing, it seems to me that the local industries might well have thriven if the tastes of the people had, in the bulk, remained unvaried and unvariable. Take, for instance, the almost entire masses of the Hindu ladies. They have been untouched by the fashions of their Western sisters, and the species of manufacture which supplied their clothing have, I believe, continued to hold the ground. As surely would the manufacture of male clothing have continued its hold, if men too could be brought to display or develop a like tenacity to old habits. While for these reasons I regard the prevailing outcry against free trade as unreasonable, while I recognise in the Bill before us a departure which marks a desirable epoch in our fiscal legislation, and which will prove a powerful solvent of doubts entertained about the operation of free trade doctrines, I cannot but share the feeling nor get rid of the impression that, just as the threatened ruin of the cane-growers and sugar-makers has laudably moved our Government towards this measure of preventive legislation, the urgent need exists to inaugurate measures, on similar lines, to meet the case of the millions of skilled workmen whose ruin is almost accomplished and whose instructed and inherited aptitude for delicate workmanship, menaced with extinction at every famine that comes round, presents a no less anxious and grave problem of the day.

"Claims of international commerce may be said to be in the way. I am not unaware of the motives, results and advantages laid to its credit. I nevertheless venture to think that it suffices to say just at present that the subject has not yet ceased to be controversial, and that, so far as this dependency of the British Sovereign is concerned, those motives, results and advantages are either too remote or too problematic to be efficacious. In the meantime let me allow that the claims of international commerce are indeed great. But the claims of a nation's prosperity and its freedom from utter impoverishment are even greater. The question may well be asked, whether the sustenance and prosperity of millions of lives, which run imminent risk of being either altogether lost or sensibly enfeebled, are not to be a primary object of every Government—a consideration paramount above commerce, international amity and all else. One may well entertain the grave doubt whether there is not, to the problem to be grappled with, a *political* as well as a *commercial*

and an economical side, whether the European and the American Governments, which are not wanting in intelligence and which have persisted in non-free-trade principles in dealing with other States, side by side with a full recognition of free trade principles within their own territorial jurisdictions, do not, after all, act in tacit acknowledgment of some such distinction, and whether sufficiently long periods of such persistence have not elapsed to refute, by practical, concrete results the abstract theory that the policy is bound to prove suicidal.

"But these latter remarks are superfluous to set on its legs the Bill before us—a Bill which has indisputable merits of its own. The sole aim with which I have thrown out those observations is to hint at what seems to me a possible solution of a kindred problem of no less gravity; and I have done so, in the hope that what is but an academical debate to-day in relation to the Bill now on the anvil, will, before long, pass within the domain of practical politics, and that this Bill will prove but the harbinger of other measures to come, though they must needs be experimental, fragmentary and cautious at the outset."

The Hon'ble SIR JAMES WESTLAND said:—"In the remarks of the Hon'ble Mr. Mehta I think he has failed to observe the distinction between the functions of this Council and the functions of a Select Committee. The question whether this Bill is in principle required or not and whether we ought to provide for the protection of the sugar-industry against existing adverse influences is, it seems to me, a question which the Council must decide for itself, and not a question which it should refer to a Select Committee. The business of a Select Committee rather comes in after the principle has been laid down and after the general tendency of the proposed legislation has been accepted, to see whether the proposed Bill is correct in point of form, or whether it cannot be altered and improved in respect of the subsidiary arrangements connected with it. The reason why no proposal has been made to refer this Bill to a Select Committee is that if the principle is adopted there is really very little work for the Select Committee to do. The Bill, as I said last Council day, has been framed on the basis and upon the wording of an Act which is actually operative for purposes to which we desire to apply this Bill. It has been carefully framed upon the experience of another legislature, and I think we may take it for granted that a further consideration of it by a Select Committee would not have altered it in point of form, or suggested any improvements in a matter so simple as that of giving powers to Government to impose duties of a certain class. Then, as regards the statement of the Hon'ble Mr. Mehta that he did not.

consider that the Bill was of a sufficiently urgent character to be brought up to be passed at this Council, I think I may reasonably refer him to the two speeches which have been delivered, one by the Hon'ble Mr. Chitnavis, himself an agriculturist and in close touch with all agricultural questions, and the other by the Hon'ble Mr. Charlu, who is a keen observer and reporter on all matters relating to social economy in India I think the statements of those two gentlemen will have convinced the Council that after all there was some reason for regarding this measure as an urgent one and seeking to pass it before the session comes to an end. Nor do I think that it is altogether reasonable to refer to a Select Committee the question of whether the statistics which have been laid before the Council are correct I have not stated these matters of my own knowledge What I stated to the Council was taken from the official reports of the high officers who were instructed to enquire into the subject, which reports have been based upon very careful enquiries These papers I quoted pretty fully last Council day, and I can only say that if any Hon'ble Member had desired to verify them still further, the fuller reports and details could easily have been placed at his disposal. I trust, therefore, that the Council will feel that the measure which is before them has been amply justified and will, on the motion which I shall presently make, be pleased to pass it into an Act."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that to the Bill the following clause be added, namely :—

Act not to apply in certain cases.

"3 This Act shall not apply to any imported article the bill of lading for which was signed and given before the commencement of this Act."

He said :—"I am afraid that the Hon'ble Mr. Mehta may now pounce upon me and say that my moving this amendment is evidence that the matter ought to have been laid before a Select Committee; but this really is no new matter. It is not brought before the Council for the first time. The Hon'ble Mr. Allan Arthur mentioned it at the last meeting, and I gave an undertaking that I should consider the subject with Mr. Allan Arthur and with his constituents, and be able to lay it before the Council for consideration when the Bill came up to be passed. In an ordinary measure for changing the duties imposed by the Tariff the law prescribes that the contracts which have been made before the change have to be modified with reference to that change. The principle upon which that provision in the law is based is that under ordinary circumstances the change of a tariff duty results in the change of the price of the article concerned more or less exactly by the amount

of the duty imposed or taken off. If this were merely a revenue measure, if it were a measure merely for altering the rate of duty which is demanded at the ports upon sugar, I would be strongly averse to making any alteration in the existing provision of the law relating to current contracts for purchase or sale of articles to be imported I take it for granted that people who make contracts of the kind know what the law is relating to them and relating to the operation upon them of any subsequent alteration of duty. But the present measure is not one that has simply for its object the alteration of a duty. It is one that will have some effect upon the sugar-trade as a whole. No doubt the price will enhance. It has been enhanced, I believe, by a certain amount, but the price will not be enhanced by the same amount by which we alter the duties. The consequence is that where we now throw upon the forward seller of sugar the obligation to pay the customs-duty at the port, he may indeed pass it on to his purchaser, but at the same time this purchaser will not be enabled by a corresponding rise of price to recover it from his purchaser. Well, the form which the provision should take with respect to these contracts for future delivery has been very carefully considered by me in consultation with those most competent advisers,—the Committee of the Chamber of Commerce,—and the form in which the clause is proposed is a form which seems to them the best for the saving of existing contracts, namely, that sugar which has been put on board a steamer at a foreign port before the date of the commencement of this Act, that is to say, before to-day, shall not be affected by the imposition of these new duties. This will postpone for a short time the operation of the Act so far as concerns the protection of the sugar-industry, but it will relieve merchants from a good deal of uncertainty regarding their transactions and from what may be a good deal of unfairness in the operation of the law. Another form which was proposed was simply to exempt from the operation of the Act all sugar which was the subject of a contract made before the Act was introduced. It seemed to me there were strong objections to giving legislation that form, because it is a section of which the operation would not in regular course come to a close by any fixed time. We might have sugar imported a year hence, or two years hence, or even ten years hence, upon the basis of a contract already made. We cannot postpone the operation of the Act for such an indefinite time, or give to future importations, which, as I say, might extend over years, an advantage over other importations going on at the same time; whereas if the Council accepts the provision for security of current contracts, which I have laid before them, the result will be that after a very short time—I suppose a month at the outside—the whole of this temporary exemption will have ceased and all sugar imported into the country will be under the operation of the Act."

The Hon'ble MR. ALLAN ARTHUR said:—"I think the amendment proposed by the Hon'ble Sir James Westland fairly meets the difficulties which I pointed out at the last meeting of the Council might arise in bringing this Bill into operation. I agree with the Hon'ble Member in regard to what he said as to the difficulty of exempting all contracts that were made before the passing of the Act from the operation of the Act, and I further think it would give the holders of such contracts a greater advantage than they can reasonably claim.

"The holders of contracts for sugar now at sea, *i.e.*, for which bills of lading are signed, will no doubt make a profit on their contracts. Beet-sugar has already risen 12 annas per maund; but as the dealers who hold such contracts probably also hold contracts for sugar which will be shipped after the passing of the Act, they will probably make a loss on these latter contracts, as it is improbable that the price of beet-sugar will advance to the full extent of the duty imposed. There will be a set-off, however, in the profit on the former contracts against the probable loss on the latter contracts, and, on the whole, I think the amendment meets the difficulties as well as they can be met."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that the Bill, as amended, be passed.

His Excellency THE PRESIDENT said:—"Before I put the question that this Bill be passed into law I should like to make a few observations with regard to it. I have been glad to notice the complete unanimity that has prevailed with regard to the Bill in this Council—representative as it is of so many diverse and important interests. The Hon'ble Mr. Mehta indeed would have preferred that this Bill should have been referred to a Select Committee—a contention to which I think that an adequate reply was given by the Hon'ble Sir James Westland. I also understood him to urge that it might have been desirable that further enquiry should have taken place with respect to the subject-matter of this legislation. Well, I have always heard it made a reproach against the Indian Government that it is perpetually conducting enquiries, and very seldom acting upon them; and that reproach I, at any rate, during my time of administration here, desire to escape.

"The answer to my Hon'ble friend Mr. Mehta is that we have been conducting enquiries for a whole year past. We have received representations from every leading Chamber of Commerce in the country, and from most, if not

all the important firms connected with this industry. We have addressed observations to, and received replies from, the Governments of all the provinces and districts of India concerned. We should have had, if my Hon'ble colleague's advice had been followed, to wait for the best part of another year before we introduced this legislation. We regarded the case as urgent, and we were not prepared to accept such a delay. At the same time I am glad to notice that the Hon'ble Mr. Mehta, although he delivered this criticism on a point of detail, did not withhold his assent, which I am certain that he is prepared to give, to the general principle of the measure. Then we have had on a previous occasion and again to-day a statement approving the Bill from the Hon'ble Mr. Allan Arthur, the distinguished representative of European mercantile interests in this capital, and finally we have had two speeches from the Hon'ble Mr. Chitnavis and the Hon'ble Mr. Ananda Charlu, which I take it we are entitled to regard as typical of the opinions that are held by those important sections of the Native community which they represent at this table. I am therefore, I think, justified in saying that at any rate within these walls complete unanimity has prevailed with regard to the principle of the Bill.

"This complete unanimity here reflects an almost equally complete unanimity outside. There are, it is true, certain interests and certain Chambers of Commerce—Bombay and Karachi I may name—in which those interests are strongly represented, which have not entirely concurred in the necessity for countervailing duties at this stage. Those representations are entitled to due consideration, but it is to be noted that they do not come from the areas where the sugarcane is grown, where the refineries exist, or where the real effect of the bounty system is felt. They represent in the main the interests neither of the producers nor of the consumers, but of the importing merchants. On the other hand, if I regard either the representations to which I have already referred, and which have been received by us from the Local Governments, or the reception which our proposals have met with alike in the English and the Native Press of India, I do not hesitate to say that few measures have ever passed through this Council with a greater weight of qualified and homogeneous opinion behind them.

"Now the first point that I desire to emphasise is this—that it is in the interests of India, and of India alone, that this legislation has been proposed by us, and that I have authorised the introduction of this Bill. It may be that our Bill may ultimately affect the action of other countries. It may more immedi-

ately touch the interests of certain of our own Colonies as well. The Hon'ble Sir James Westland in his speech to-day has alluded to the representations that we have received from the Colony of Mauritius, a Colony in which, in view of the enormous Indian population that is there engaged in labour, we here are bound to take a close interest, and whose welfare we should be glad, I am certain, consistently with our own, to subserve. It may be that this Bill will set an example of far-reaching significance. By some it may even be regarded as a factor in the Imperial problem. It is from such points of view that we may expect the measure to be examined, and perhaps criticised, in the British Parliament in London. I do not deprecate such examination, or such criticism, conscious that it will not weaken, but will rather strengthen, our case. All I have to say here is that our conduct has not been determined by those considerations. We are exercising our own legislative competence, of our own initiative, though with the sanction and concurrence of the Secretary of State, to relieve India from an external competition, fortified by an arbitrary advantage, which can be shown to have already produced serious consequences upon our agriculture and manufactures, and which, if unarrested, is likely to produce a continuous and a dangerous decline.

"There is another point upon which I must, in passing, say a word. I have been glad to notice that no one in this Council has ventured upon the argument that we are guilty of an economic heresy in our proposal to meet bounties by a countervailing duty. Bounties are in themselves an arbitrary, and in my opinion a vicious economic expedient designed in exclusively selfish interests. They are inconsistent with free trade, because they extinguish freedom, and they reverse the natural currents of trade. To meet them by a countervailing duty is to redress the balance and to restore the conditions under which trade resumes its freedom. I do not think that we need pay much attention, therefore, to the mutterings of the high priests at free trade shrines. Their oracles do not stand precisely at their original premium. This is not a question of economic orthodoxy or heterodoxy; it is a question of re-establishing a fiscal balance which has been deflected for their own advantage and to our injury by certain of our foreign competitors.

"Moreover, if the utilitarian basis upon which the doctrines of free trade are supposed in the last instance to rest, *viz.*, that they regard the interests of the greater number, be examined, out of their own mouths would the prophets of those doctrines, in India at any rate, be condemned. For here we are dealing in in the case of the sugar-industry with a population the vast majority of which are

not consumers of a cheap imported article, but are themselves producers of the raw material, and in their capacity as consumers consume for the most part the article which they have themselves produced and worked up. In other words, the conditions that prevail in England are completely reversed. The majority in England consists of poor consumers to whom it is indispensable that the price of sugar should be low. The minority consists of capitalist producers. On the other hand, the majority in India consists of poor producers whose industry is at stake; the minority consists of well-to-do consumers of refined sugar who are not likely, in my judgment, to be affected seriously, if indeed they are at all affected, by enhanced prices resulting from our legislation, but who, if they were, could not claim that their interests should override those of the overwhelming majority of the population.

"Now I shall not recapitulate the figures which have been laid before you with so much ability and clearness by the Hon'ble Sir James Westland when he introduced the Bill at our last meeting; but let me remind you of the facts which have been established in this discussion. They are these:—firstly, that there has in the last few years been an enormous increase in the importation of beet-sugar into India from Germany and Austria—a fact which is unquestionably due to the loss by the American market of those countries in consequence of the imposition of countervailing duties by the Government of the United States in 1897; secondly, that in the same period the rupee price of sugar in this country has seriously fallen; thirdly, that there has been a contraction in nearly every part of India in the area under sugar-cultivation, the total reduction being estimated at as much as 13 per cent; fourthly, that there has been a widespread and a still unarrested closing of native refineries, a phenomenon which is capable of one explanation, and one alone; for while it may be argued that the decline in the total area under cultivation may be partially due to other causes such as famine and the low prices resulting from famine, that this is not the case in respect of the factories which have been closed is demonstrated by the fact that in districts where cultivation has increased, or remained stationary—in other words in districts which have remained unaffected by famine—the refineries nevertheless have been, and still are being, shut.

"From these facts it appears to me to be impossible to draw any other conclusion than that this decline in an Indian industry—in which I have seen it stated that two millions of people are employed and in which the value of the annual crop has been estimated at nearly twenty millions sterling—is due to the importation of beet-sugar at a price below the natural cost of production *plus* the

cost of transport, in other words, to the unrestricted competition of a bounty-fed article.

"Now this is a state of affairs which neither the Government of India nor I, as the head of that Government, from whatever point of view we may regard it, can contentedly accept. If we look at it from the point of view of the agriculturist, we cannot sit still and look on while he is impoverished by the economic exigencies of Continental nations. If we regard it from the point of view of native manufactures, what would be the meaning and value of the speeches which I have made since I came to India about the encouragement of native enterprise, if I were to acquiesce in the tacit suppression of this promising branch of indigenous industry? We ought, on the contrary, I think, to stimulate and to encourage its development by every means in our power. Finally, if I approach the question from the point of view of the Government, while we should be strangely constituted if we could contemplate with equanimity the preventible growth of an agrarian and industrial grievance, which must sharply react upon the general prosperity of the people, we should also be poor stewards of our own estate if we were to acquiesce in a condition of affairs that must detrimentally affect both the land assessments and the canal returns, and in this way jeopardise the ultimate revenues of the State.

"These are the grounds—which I have endeavoured to state in their wider rather than in their narrower aspect—that have induced the Government of India to introduce this Bill, and that enable me confidently to recommend it to the acceptance of this Council and of the public."

The motion was put and agreed to.

INDIAN MINES BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to provide for the Regulation and Inspection of Mines. He said:—"The object of this Bill is to provide for the regulation of labour in, and for the general management and inspection of, mines in India. There is at present no law dealing with the subject on the Indian statute-book. The mining industry in India is of comparatively recent origin, but its progress in at least one province during the last fifteen years has been so rapid that the necessity for obtaining for the Government statutory powers of inspection of mines, for enforcing proper precautions in their working, and for assuring health and protection of life and limb to the operatives, has been repeatedly under the consideration of the Government.

This obligation has been recognised in all countries in which mining operations on any considerable scale, with the risks inseparable from them, are carried on: and the hesitation of the Government of India to give it statutory form has been due not to any doubt as to the eventual necessity for legislation, but partly to a wish not to put difficulties of any kind in the way of a rising industry, and partly to the willingness evinced by those interested in the mining industry to permit their mines to be inspected by Government officials, and to the hope that precautions and improvements suggested on such inspections would in most cases be adopted without the coercion of law. It was also thought desirable to see how the Indian Factories Act worked in practice in a cognate sphere of industry, and to ascertain what degree of protection was really needed in this country for certain classes of operatives, and how far it could be given by law without unduly crippling manufacturing enterprise. This experience has been satisfactory. Protection has been given to factory operatives in various ways and the conditions of labour have been sensibly ameliorated, yet no unfair strain has been placed on the industry. Careful and considerate employers have no cause to fear the Inspectors' visits, and the labour regulations are as simple and moderate as are compatible with the health and well-being of the employés. The time has now come in the opinion of the Government to take a similar step with regard to mines, to bring them under statutory inspection, and to enforce such rules of management and such labour conditions as a considerate and well-informed mine-owner already either adopts or is willing without compulsion to adopt.

"Five years ago, in order to satisfy itself as to the urgency for such legislation and to inform itself thoroughly as to the management and the labour conditions of Indian mines, the Government of India obtained from England a competent Inspector of Mines. Towards the close of 1894, Mr. Grundy submitted his first report, containing the results of his inspection of 67 mines, most of them collieries in Bengal. He showed that Indian mining was in many respects far below the standard reached in other countries, and far below what it ought to be in India. He found, to quote his exact words, that there was 'except in a very few mines an almost entire absence of such essential principles and practice of mining knowledge as ventilation, timbering, etc.' Ventilation, he said, was much neglected. Fire-damp was not properly tested. Used and unused shafts and machinery were often left unfenced. The winding machinery was not unseldom defective. In quite a number of mines no plans of the underground workings were maintained. Regular inspections of all underground working parts, with a view of testing for safety, were not carried out by the mine staff. Accidents were not properly and promptly reported. With regard to accidents he reported in 1896,

after two years' further experience, that the accidents which he had investigated 'afforded ample proof that lives were lost that might have been saved, and that the reporting of accidents by the mine officials is one of the most necessary requirements of Indian mining.'

"These reports satisfied the Government that legislation was required and ought to be undertaken without delay; at all events, for the purpose of obtaining statutory powers to inspect and to make rules for the reporting of accidents, and for the technical management of mines. But the point on which the Government was doubtful was as to the necessity for placing restrictions on the employment of women and children employed in mines, or for regulating working hours, and the like. The provisions of the English Statutes are very precise. No boy under the age of twelve years, and no girl or woman of any age, may be employed in, or allowed to be, for the purpose of employment, in any mine below ground. The hours of employment below ground of boys over twelve and the intervals of rest during such employment are fixed. So likewise are the hours of employment above ground of boys, girls and women. These provisions generally correspond with the recommendations of the Berlin International Labour Conference of 1890, and although India, as it was not represented at the Conference, is not actually bound by the decisions of the delegates, it must obviously accord to them the very greatest consideration, and if it departs from them should do so only on the clearest evidence that they apply to social and labour conditions which do not exist in India. Now the Mining Inspector reported very fully and fairly on the subject of the underground employment of women and children in the mines inspected by him. He wrote with regard to the women to the following effect:—

'3. They generally work under circumstances in which they can enjoy the company and protection of their nearest relatives throughout a good part of the working shift. They work in gangs and families, and do not, as a rule, mix with any men other than relatives.

'4. Working in the mines provides them with labour that could not be got out of the mines, and for which they get a comparatively good rate of pay. And I did not find any distressing circumstances connected with the employment of females and children, but all appeared to be hearty and happy.

'5. A large majority of the females have little or no work to do at home; and, without their help in the mines, husbands and relatives would be put to great inconvenience and trouble in doing their work.

'6. Without the wages they earn, many families would become most miserably in want as compared with their present prosperity.

'7. When proper precautions are taken for proper ventilation and making the workings healthy, it is an advantage to them to be in the mines and out of the sun's heat during the hottest part of a summer's day, the mines being comparatively cool.

'8. Working in the mines has no more tendency to immorality than most other employments, but in a great number of cases it is of a protective nature.'

"But he added the important caution that there are parts of mines and kinds of work on which women ought not to be employed. With regard to children, he found only a very few boys under ten years of age employed in the mines, and he thought therefore that there would be little hardship in prohibiting their employment. But he pointed out that such prohibition would also prohibit the admission underground of all children under ten years, and that mothers found it convenient to take their babies into the mine with them.

"The Government of India accordingly decided to reserve these labour questions for further consideration, and to appoint a Committee to advise as to other matters on which legislation was necessary, and to draw up rules to be made under the proposed law. On this Committee the Bengal Chamber of Commerce, the Indian Mining Association, and the Native owners of coal-mines were represented. The Committee accomplished a very laborious and useful piece of work, for which the Government of India have already expressed their acknowledgments. They prepared the draft of a Mines Regulation Bill, which was for the most part of an enabling character, and very full drafts of rules proposed to be made under it. These rules will be of the very greatest service if the Bill which I have asked for leave to introduce, should become law. On receipt of the Committee's report the Government of India remitted it to Local Governments for opinion and discussion, and at the same time especially invited opinion on the two questions of prohibiting underground employment in the case of women and restricting it in the case of children.

"The Bill which I propose to introduce represents the Bill prepared by the Committee, recast somewhat in language to bring it more into accord with the technicalities of drafting, and altered in some matters of comparatively minor importance, in the light of the criticisms which have been received. The Bill, like the Committee's Bill, will apply to the whole of British India and to mines of all sizes and all classes. But any inconvenience likely to arise from its far-reaching extent is avoided by power being taken to exempt any local area, or any mine or class of mines, from any or all of its provisions. The appointment and powers of Inspectors of Mines are provided for on the general lines of the English Statutes, and call for no special observations. Then come

certain provisions with regard to operatives which find no counterpart in the Committee's Bill. The Bill provides that children shall not be employed underground unless of the age of ten or upwards, and that children between the ages of four and ten shall not be allowed to go underground. This is followed by clauses which enable the Government of India or the Local Government to make rules in respect of all mines or of particular classes of mines for prohibiting, restricting or regulating the employment of children up to the age of fourteen years or of women, and of limiting the hours of employment of women or children. These provisions follow in the main the final recommendations made by the Government of Bengal after a very careful survey of the subject, and they are considered by the Government of India to represent the smallest amount of protection which should be afforded by law to these classes of workers. The only positive prohibition is in respect of the underground employment of children under the age of ten. The Government of India recognise the fact that in very many mines women in India may be employed underground, on the family gang system common to the country and in association with their husbands, without any objection on the ground of morality or of physical health. But it cannot ignore the fact that where the system does not prevail, or where the mine is dangerous or very deep, or the work dangerous or very laborious, children below fourteen or women should not be so employed. In such cases rules prohibiting or restricting or regulating the employment of women and children would be made. The objection may be taken that this is leaving too much to the discretion of the Executive Government The reply to that is that mining conditions vary so greatly in India, and the mining industry is in a state of such rapid development, that unless large discretionary powers are left to the Government, either the whole mining industry must be unnecessarily stretched on a Procrustean bed, or defenceless classes must go without protection. The latter alternative the Government of India is unable to assent to. As a condition of reducing the absolute statutory prohibitions to the minimum, the Government must keep in its hands a large rule-making power.

"I explain this point at length because the same considerations apply to the absence of explicit provisions elsewhere in the Bill regarding such hotly disputed matters as the classification of mines, the appointment of certificated managers, the construction of shafts and the like, and their proposed regulation by rules. If the Bill be passed, the first step will probably be to frame rules applicable primarily to coal-mines, and to coal-mines of different working capacities and degrees of development. When this is done, the particular requirements of metalliferous mines, of mica-mines, of stone-quarries, and so on, will be brought under review and regulated. In all cases the object will be, not to

secure absolute uniformity of equipment and management, but in every case the necessary protection of the workmen. Regulations which are essential in the case of large mines would, unless relaxed, be ruinously burdensome to the small mines.

"The central part of the Bill defines the responsibilities of owners, agents and managers, requires notice to be given of accidents, enables the Government to hold formal enquiry into cases of accident and to publish the results, and provides for the appointment of Committees of reference in cases in which the requisition of the Mining Inspector is considered by the mine-owner to be in excess of the requirements of the rules which apply to his mine. I need not dwell on these provisions, nor say more than that they have been framed with advertence to the more elaborate provisions of the English Statutes.

"The penalties prescribed in the Bill have been framed on the side of leniency rather than severity, and a valuable safeguard against criminal prosecutions when technical points of mine-working and management are in question is provided in clause 26, which enables the proceedings to be stayed and the case referred to a Committee of reference.

"The only other point on which I need touch is the power proposed to be taken in clause 21 to make rules 'to provide for the safety of the public and the protection of public property and works from injury in respect of any mine, whether the mine is worked or not.' The object of this power is stated at length in the Statement of Objects and Reasons accompanying the Bill, and though the precise form in which increased protection should be given by the Bill to the State and the public from the risk of injury from underground workings may be open to further consideration, there is no doubt that increased protection is urgently required, and that in some form or other it should be given.

"I must apologize for the length of these remarks, but the matters provided for in this Bill are of great importance, and it is desirable to afford a full explanation of the reasons for the proposed legislation. The Bill will be circulated for opinion in the usual manner, and it is intended to postpone its reference to a Select Committee until the next session of Council here in Calcutta Ample opportunities will thus be afforded for its deliberate consideration by all interested in the matter."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Monday, the 27th March, 1899.

H. W. C. CARNDUFF,
Offg. Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 24th March, 1899.

Government of India Central Printing Office.—No. 715 L. D.—24-3-99.—320.—E R.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Monday, the 27th March, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

The Hon'ble Maharaja Rameshwara Singh Bahadur of Darbhanga.

The Hon'ble Nawab Bahadur Sir Khwaja Ahsanullah, K.C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble MR. GANGADHAR RAO MADHAV CHITNAVIS asked:—

"1. Will Government be pleased to say if they intend introducing in the Central Provinces a law of entail for the preservation of old estates, as they intend doing with regard to estates of old and loyal proprietors in the North-Western Provinces and Oudh?

"2. Will Government be pleased to say if the main reason which actuates Government to assess sír lands in the North-Western Provinces and Oudh is the fact that sír lands cultivated by proprietors by means of servants do not generally yield the same profits as self-cultivated lands?

"3. Will Government be pleased to say if the inquiry promised by Sir Antony MacDonnell as Home Member to my question (*c*) on the 15th of February, 1894, has been instituted, and, if so, will it be pleased to state the result of that inquiry?"

The Hon'ble MR. RIVAZ replied:—

"1. The proposals for legislation to which the Hon'ble Member refers, relate exclusively to a particular class of estates in the province of Oudh, and any legislation that may be undertaken will be carried out in the provincial Legislative Council. The enactment of a similar measure for the Central Provinces has not yet been considered by the Government of India.

"2. The Hon'ble Member is in error in thinking that the main reason which actuates the North-Western Provinces and Oudh Government in allowing a reduction in the assumed rental value of proprietors' sír land is that proprietors who cultivate their sír through the agency of servants, make smaller net profits from such land than its rental value. The main reason is that given in the assessment rules, namely, that, when the number of proprietors is great and their circumstances poor, a reduction in assessment as an act of grace is allowable, and may be made by placing a low valuation on their sír lands. If the reason were as supposed by the Hon'ble Member, a low valuation would be allowed only in the case of sír lands cultivated by the proprietor by means of hired labour, and would not be allowed in the case of sír lands let by the proprietor to tenants. The Hon'ble Member is probably aware that sír lands are very frequently so let.

"3 The inquiry promised by the Hon'ble Sir Antony MacDonnell was as to the operation of the rule in force in the Central Provinces, which allows in certain cases an assessment up to 65 per cent. of the rental to be imposed by the Settlement-officer. The inquiry was duly made. It was ascertained that the only districts in which the permissive rule in question had been of any practical account were Nagpur and Wardha. In these the Settlement-officer had found a considerable number of villages in which at the last settlement the assessment had been made at a higher percentage than 65 per cent. of the assets, and had been paid without difficulty. In such cases he revised the

assessment on the basis of from 60 to 65 per cent. of the assets. The inquiry also showed that the proprietors generally gained by the re-settlement proceedings, inasmuch as the Settlement-officer simultaneously enhanced the rents receivable by them from the protected tenants, and such enhancement exceeded the addition made to the proprietors' assessment."

DISCUSSION OF THE FINANCIAL STATEMENT FOR 1899-1900.

The Hon'ble SIR JAMES WESTLAND said :—" My Lord, in initiating the discussion on the Financial Statement there are one or two points on which I have to make a few observations. A couple of years ago I had to make an apology here for not being able to send the Financial Statement to the Presidency of Madras in the same way as advance copies of it had been sent to Bombay and other places. I regret that there was a failure this year also, and I would make an apology for it were it not for the fact that I have received a thorough scolding from a newspaper in Madras which I think has had the effect of enabling us to cry quits. But I think it is a little ungenerous for this newspaper to hint—if it has not positively said so—that it was partly intentional on my part that I neglected to send the Statement to Madras, and that it arises simply from the fact that I have never hesitated to sacrifice the interests of the Southern Presidency to those of Northern India. I wish to explain that it is really difficult for us to get the Financial Statement ready in time to send it off three days before the day fixed for its presentation in this Council. I have formerly explained that we do not close the Financial Statement until we have an opportunity of considering the results of February's accounts. That puts off the possible completion of it till the 12th or 13th March at the very earliest. Having done this, we have to prepare ourselves for presenting it before the Council about the 20th March, as sundry inconveniences arise if it is not ready by that date. We have therefore only the 13th to the 20th at the very outside to prepare the final copy of the Statement and to pass it through the press, and if possible send it off to Bombay and Madras. I have done my best to let these Presidencies have copies of it, but I really cannot accept responsibility for Madras being one day further from Calcutta than Bombay, and of the consequent failure in respect of the arrival of the Budget Statement in Madras while it has been duly delivered in Bombay.

"One other remark I wish to make—a remark of a general character. On this day last year I was engaged in defending myself against charges of 'complacent optimism'—I think that was the expression used with regard to the preparation of last year's estimates. Well, I of course was unable to say

anything more than that the estimates had been very carefully prepared upon the usual principles, and if Hon'ble Members would only choose to wait twelve months they would see whether I was guilty of 'complacent optimism' or not. Hon'ble Members can judge for themselves whether the results show that I systematically over-estimated the revenues. As a matter of fact, and as I pointed out last Monday, the returns of revenue exceed the estimates which I made last year. I see that I am accused this year from two directions: one leading newspaper of Northern India accuses me of pessimism because under Salt and some other heads we are quite certain of receiving larger sums than I have entered in the estimates. A leading Calcutta newspaper, on the other hand, accuses me of optimism because it is not quite sure that we shall receive the opium revenue which is entered in the estimates. If I am accused on the one hand of optimism and on the other hand of pessimism, the natural conclusion I come to is that I have been adopting a very fair and just mean. There is one thing I wish to repudiate, and that is this: I have not made the estimates, in any sense whatever, with reference to my leaving office and to the management of the finances going into other hands; every single figure in the estimates is exactly what it would have been if the financial management of the empire had remained in my hands. That, I say, I wish most positively to repudiate any such intent, because I have seen it asserted that I had in view the change of office, and that I have prepared the estimates which I have laid before the Council, with a view to that change. I think Hon'ble Members should bear in mind that these estimates are not meant as guesses of the future. The figures as I now state them may, when we come to make up the accounts, show under various heads higher or lower figures than I set out. It is not intended in these estimates merely to make a guess at the future; they are not merely a pleasing arithmetical exercise brought to the Council for criticism, but they are an answer to this question—what revenue can you fairly count with security upon receiving, and what expenditure can you in accordance therewith undertake to incur? If Hon'ble Members will bear in mind that that is the question which the estimates are intended to answer, I think they will see that on the one hand it is necessary for us to make, in a country which is liable to so many changes during the year as India—it is necessary for us to make what are ordinarily called safe estimates of revenue, and on the expenditure side we fully expect, notwithstanding our estimates, to finish the financial year with considerable savings upon the Budget expenditure."

The Hon'ble THE MAHARAJA OF DARBHANGA said:—"My Lord, I have listened with interest and pleasure to the exceedingly satisfactory Budget Statement with which the Hon'ble Member in charge of the Finance Department

has presented us. It is, indeed, cheering to observe the revenues so steadily expanding. I shall not be guilty of the impertinence of congratulating the Hon'ble Member on the results of his last Budget; but I have a few observations to offer in connection therewith which I hope will meet with the favourable consideration of the Government of India.

"I shall divide my remarks under several heads with Your Excellency's permission; and the first point upon which I propose to touch is that of the income-tax. I am sorry, my Lord, that the Hon'ble Member has not been able to announce or to recommend any reduction of taxation. With a realized surplus of 4 crores and with a further 3 crores and 90 lakhs estimated to accrue during the coming year, I must confess that the public might have expected some such boon at his hands. I can sympathize with the Hon'ble Member in the reasons he assigns for maintaining taxation upon its present scale: although perhaps I am not so much impressed with their gravity. But there are many directions in which concessions might be made, without seriously affecting the stability of the finances. The income-tax furnishes us with an excellent illustration. This is a tax the incidence of which is particularly felt by the lower middle classes in this country. Under the present taxable minimum of five hundred rupees per annum, all persons with a monthly income of fifty rupees are assessable. As has already been pointed out more than once in this Council in the discussion upon previous Budget Statements, the parties who pay tax under this class of the schedule are petty tradesmen and clerks in Government offices or in private employ. Notwithstanding the smallness of their salary, they are expected to appear in public in respectable clothing, and there is not one of them who has not to maintain and provide for a large family. I submit that they are a class who in every way deserve relief at the hands of the Government. Their necessities are such that, considering the general rise in the prices of articles of food and clothing during the past twenty years, it is impossible for them to make two ends meet on such a paltry income. The suggestion I would respectfully make to Your Excellency would be that the taxable minimum should be raised from Rs. 500 to Rs. 1,500, or the rupee equivalent to £100 per annum. The Hon'ble Member in charge of Finance may reply—although I sincerely hope he will not, with such a large cash balance at his disposal—that the Government requiries the money contributed by these classes of people, and that it cannot therefore see its way towards granting the relief prayed for on their behalf. I venture to urge, on the contrary, that the existence of so

prosperous a Budget-sheet as has been unfolded to us affords an excellent opportunity for exempting these persons from the operation of the tax. I do not intend to enter into a discussion on the subject of the suitablity or otherwise of a tax like the income-tax to this country, but I would represent that it causes great distress and inconvenience to individuals of the class I have named, with small incomes and pressing necessities. I am sure no greater boon could be conferred, nor one that would be received with greater gratitude, than the lightening of the burden of the income-tax upon the heavily-weighted shoulders of these poor people.

"There is another topic to which I would ask Your Lordship's sanction to allude. I am the more encouraged to do so, I confess, by the character and tenor of Your Excellency's various utterances since your assumption of your exalted office. I acknowledge with gratitude the grants-in-aid and the contributions made to provincial governments to meet earthquake, famine and plague expenditure. They have been bestowed with a liberal hand: for they amount in all, as I observe, to a crore and thirty-two lakhs of rupees. But I would ask—why not restore the working capital of each province to its statutory balance? To do so would be to enable them once more from their current resources to prosecute those public works which are so urgently called for. I speak, my Lord, with special reference to Bengal and Assam. In either province there is much to be done in this direction. I need only mention at random the lack of good roads in the Duars and the equally lamentable want of adequate means of communication in Assam. Then again I would beg for an energetic policy on the part of the Agricultural Department. There are many questions with which they might profitably deal, and in all of which the cultivator is vitally interested. Take, for instance, the introduction of new crops. In South Russia, I am told, the sun-flower is grown in large quantities and an excellent oil distilled from it. Why should not an enquiry be instituted in this direction? Take again the serious nature of the disease that is attacking the betel-nut trees in Bengal and the sugarcane in Madras. This is another matter that merits the attention of the department. No one, I dare assume, will deny that the backbone of India lies in her agriculture. Were it not for her cultivating class, India would cut a sorry figure, from a financial point of view. I submit, my Lord, that it is the duty of the administration to assist the cultivator, and to foster and encourage his interests in every possible way. I am not asserting that much has not been done, and that much is not being done at the present moment, in this direction; and I hope I shall not be so unfortunate as to be misunderstood. I yield to no one in my appreciation of the sentiments expressed by

Your Lordship in your speech on Monday last on the Sugar Duties Bill: and, unless I am much mistaken, it will prove to be the beginning of a new era in our history. But I will venture to remind Your Excellency of the public occasion upon which you gave expression to the hope that the five years of your Viceroyalty might see the completion of a quarter of a lakh of miles of the Indian railway system. Nothing, if I may say so, has given more satisfaction in India than this glimpse into the policy of internal development which Your Excellency has evidently set before you. If there is one thing more than another that the people of India need, it is increased facilities in the way of transport, for it will encourage agriculture, stimulate commerce, and help to open out the mineral and other resources of the country. And this leads me on to the offering of a few observations, which I do with all respect, on the administration of railways in India. Circumstances have brought it about that most of the large railway systems in this country are under the direct control and management of the State. I do not presume to quarrel with the arrangement. It finds its counterpart in more than one country on the Continent of Europe; and it certainly has many arguments to recommend it. One of the advantages it undoubtedly possesses, my Lord, is that it enables me to bring up the subject on the present occasion, and to call the attention of the Government of India to certain matters in connection with which it is the general feeling that some reform might be introduced.

"I would first deal with the question of third class accommodation. A large profit is derived from this source, and there is no doubt that without its receipts the Railway Administration would be seriously embarassed. That being so, may we not reasonably ask for better carriages? Is it not possible for some improvement to be made in the fittings and general arrangements of third class carriages? I would suggest the introduction of corridor trains of third class carriages, with conveniences at either end. The idea is no new one. In America such carriages have been in use almost since the introduction of railways into the United States. In England they are becoming daily more and more popular. There is no question of want of funds to stand in the way, for, as I have already said, there is a large profit derived from the conveyance of third class passengers. Again, the subject of suitable latrine accommodation for these passengers has been raised more than once in Your Excellency's Council. But, although attention has repeatedly been called to it, and questions asked of the Hon'ble Member in charge of the Department by my friends the Maharaja of Ajudhya and the late Prince

Sir Jahan Kadr Mirza, I cannot find that any material improvement has resulted. The want of suitable latrine accommodation in the carriages themselves is further aggravated by the system under which third class passengers are locked up for long distances. There is, again, the question of conveniences for native ladies when travelling. This is a most important matter, and one of which I hope the mere mention may be sufficient to secure a much-needed improvement. I would also ask for a more frequent train-service. Until this reform is effected it will be impossible to prevent hustling and over-crowding at stations. The spectacle is a very unseemly one; but passengers are compelled to resort to it in order to secure seats. The fact is, however, that there is not accommodation for half of those who wish to avail themselves of it; and dozens of travellers are daily left behind at railway stations. In many cases they are detained for the whole day, and always for many hours, for there is not that constant succession of trains to which an English traveller is accustomed. I would call the attention of Government to the great room for improvement in this direction. Further, I would suggest that separate accommodation should be provided in all trains of all classes (whether first, second, intermediate or third) for natives and Europeans. This will be no startling innovation, for separate third class carriages are already provided for Europeans upon most trains. The public benefit will be great. There would then be an end of the unhappy incidents which sometimes occur on railways, and which are nearly always traceable to a want of mutual understanding between the two communities, and a lack of proper appreciation of each other's peculiar habits and customs. At present, too, the intermediate carriages upon certain lines of railway are just as deficient in proper latrine accommodation as the third class carriages in all. I would plead for the adoption of a uniform system. There seems to be no reason why the East Indian Railway and the Eastern Bengal State Railway, which are both under State management, should decline to provide conveniences for their intermediate passengers. For, on the Bengal and North-Western Railway, such accommodation is provided. This again is a defect which, in my view, calls for urgent remedy.

"I now come to the question of fares. My Lord, I do not deny that the present rate per mile for third class fares is low, in comparison with those in other countries: but so are the working expenses, especially on railways in Bengal. I would urge on behalf of the community a still further reduction. As has been pointed out with all the authority of the Press, a journey of twenty miles by rail, at a cost of four annas two pies, or 2½ pies per mile, may appear at first sight

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a small charge, and from an European point of view, it undoubtedly is so. But it often amounts to fourteen per cent. of the monthly income earned by a large number of these third class travellers; and it is to them a serious consideration. I will put my case for cheaper fares, with Your Excellency's permission, in the words of Colonel Sedgwick, I take from a note, published by him in 1881, when Manager of one of the State lines, and quoted by Mr. Horace Bell in his book on *Railway Policy in India*. I venture to think his remarks are still most applicable. He says:

'If we look at what railways have done, in view of the conditions they have had to face, we shall find that they have adopted, in competition with carts and boats, comparatively low goods rates, but that they have never thought of lowering their passenger fares sufficiently to enable an ordinary coolie to travel more cheaply by rail than he can travel on foot, though this can undoubtedly be done . . It is not to be wondered at, therefore, that railways have altogether failed to attract the masses, and have only succeeded in getting the well-to-do classes . . . To attract the masses railways will have to lower their fares until a journey can be done as cheaply on the railway as on foot. To do this the fare must not exceed 1½ annas for twenty miles, or say one pie a mile, and perhaps in the poorer districts it may have to be reduced to three-quarters of a pie.'

"I will only add that, in issuing the pamphlet in which these excellent observations of Colonel Sedgwick occur, the Government not only pointed out that third class fares had been reduced to 2½ pies a mile on the East Indian Railway, but they added that the effects of the reduction would be watched 'with care and interest,' with the view of proceeding further in the direction of a further reduction of fares. This was seventeen years ago, and my submission to Your Lordship is that the time has now come for the putting into action of the words of sympathy then expressed.

'Up to 1890,' says Mr. Horace Bell, 'the minimum fare aimed at by the Government was 1¾ pies per mile, but this was not acted on, the lowest fare on State lines being 2 pies per mile. In June, 1891, however, this minimum was further reduced to 1½ pie a mile. . . As yet only one line, the Madras Railway, has had the sense to adopt this fare, and with results that are so far very encouraging; while another, the Bengal and North-Western Railway, closely follows with a station-to-station rate, which is equivalent to about 1¾ pies a mile, and with entirely satisfactory effect. What is needed is that the Government should have the courage of its opinions, and show the lead by giving this low rate a full and fair trial on some large State line. There is good reason for the hope that this course will be shortly taken: but, until this is done, it will continue to be held, by those well qualified to hold the opinion, that we have not yet reached, and that by a long way, the limits of our passenger traffic on India railways, and to this it will be impossible to offer any adequate refutation. At the same time it is conceded that a rate of 1½ pie per mile is not properly applicable over

the whole Empire, but is only suited for adoption over areas in which the population is at once dense and poor, and where low wages, and the general struggle for existence, renders them unable to contemplate journeys by rail on more onerous terms. The statistics of the railways which serve such districts point to the certainty that with large numbers, low speeds, and properly-fitted vehicles, passengers of the lowest class could be carried at a fare of one pie per mile, and leave a profit of from 20 to 30 per cent; but the cost of carriage is a quantity varying with the volume of traffic, and it may be found that an even lower rate is possible. If, however, we can profitably carry at one pie per mile—a rate which implies that a man can travel 24 miles for the lowest daily wage now paid in India—we may rest satisfied that we have placed railway travel within the means of the poorest classes and may be content to wait for the results.'

"There is nothing, my Lord, that I could wish to add to these remarks of Colonel Sedgwick and Mr. Bell, which express my own views in far better language than is at my command. But if I were to say a word, it would be this: why should it be an essential of Indian railway management that no reform can be undertaken, unless it will result in a profit? In other countries, so far as my knowledge serves me, such considerations are subordinated to the main question of the convenience of the public. Facilitate the means of transport, encourage the population to move about freely; and, although the result may not be a net gain to the railway administration, the advantage, I submit, is bound to be felt in other directions and in the other component parts of the machinery of the State. I assume that the greater traffic will more than compensate for the loss per unit occasioned by the reduction in fares.

"And, while I am on the subject of railways, there is one more topic to which I ask permission to advert. Are the Government of India, I venture to enquire, really satisfied that the solitary railway system, as represented by the East Indian Railway, adequately serves the requirements of the large population that lines its route, either in the matter of passenger or of goods traffic? As a member of the Bengal Chamber of Commerce, I will only say here that I thoroughly agree with the views of the Chamber on the point. But, if any proof were required of the soundness of their contentions, it is to be found in the slow transit of goods from the North-Western Provinces at the present time. I cannot help observing, my Lord, that, while the Railway Department have not grudged the increased rate of railway mileage which they have given of late years to the North-Western Provinces, Bengal itself has not been equally well-treated in this respect. It has been amply demonstrated during the late famine that increased facilities for transport are urgently necessary; and a glance at the map will suffice to convince the most incredulous. For there is a tremendous blank from Lakhiserai to Bilaspur. I am in favour of the filling up

of this gap on more than one ground. The construction of a line running through Chota Nagpur, such as the merchants of Calcutta have so long advocated, would not only serve the interests of trade, but would enable large numbers of Hindus to visit the sacred shrines of Benares, Gaya and Pooree, without the vexations, inconveniences and dangers inseparable from a pilgrimage by road. And I would also point out that it would prevent large hordes of people passing through the great centres of population in their present leisurely fashion, a most serious matter in these days of plague. Intimately bound up with this question and equalling it in gravity and urgency, is the necessity that exists for the construction of light narrow gauge feeder lines of railway in rural districts. I venture to express a hope that Your Lordship will be able to see your way towards giving every encouragement to the development of such projects, not only in Assam, where they are imperatively demanded for the opening up of communications, but also in Bengal itself. We have already a few of these lines, thanks to private enterprise and energy: but we sadly require more. I submit it is most important to adopt every precaution against the spread of famine, and nothing is more calculated to defeat this object than the absence of adequate means of transport.

"My Lord, the consideration of the question of providing increased facilities of transport, and of the prevention of famine thereby, brings me to another topic with which I propose to concern myself. As a zamindar, the question of the colonization of the waste-lands of Assam has the deepest interest for me. The subject was broached by my friend Sir Patrick Playfair during the Budget discussion in this Council in 1897. Sir Patrick then observed:

'Closely connected with the prevention of famine lies the question of the movement of the people and their distribution for employment...In this connection I would call attention to the advantages that might be gained by the movement of the people to the province of Assam and to the benefit that the Government of India would confer in bringing this about.....There is an enormous tract of land quite distinct from that suitable for tea, which is well adapted to the cultivation of cereals, jute, and other crops...It is remarkably free from drought, and should now be pouring supplies of grain into Bengal, like the neighbouring province of Burma. Feeling assured that Assam cannot be peopled without special effort, I should like to enquire if the Government of India will not undertake this as a protective measure against famine, as well as for the good of the province.'

'My Lord, in answer to Sir Patrick Playfair and to my late brother, who warmly supported what had fallen from the mercantile Member, His Honour the Lieutenant-Governor of Bengal, who was then in charge of the Home Department of Your Excellency's Government, undertook that the observations that had been made should be communicated to the Chief Commissioner of Assam. His

Honour added that there was nobody who, from his energy and experience in these matters was more likely to work out a practical scheme for the emigration of the people than Mr Cotton, the present Chief Commissioner No better proof of the truth of Sir John Woodburn's eulogiums could be found than the masterly note upon the subject that has since been compiled by Mr Cotton That note has been before the public since the 6th of February, together with the letters of the Revenue and Agricultural Department and in common with many others—for the topic has aroused widespread interest in Calcutta—I have perused the correspondence with attention I observe, my Lord, that permission has been given to the Chief Commissioner to make grants to private capitalists over an experimental area, subject to the modified conditions sanctioned by the Government of India I would not have dwelt upon this subject at all, but, as a zamindar and a capitalist, my interest in the question is somewhat of a personal nature Your Excellency will, I trust, forgive me if I say that the conditions imposed by the Government of India are not such as to attract any zamindar or private capitalist The addition of clearance conditions, and the reduction of the period of the lease to 33 years, are especially felt to be insuperable objections If Your Excellency will permit me to offer a humble and respectful expression of opinion, it would be to urge that as few conditions as possible should be attached to the first grants of land made under Mr Cotton's scheme. I am aware, my Lord, that I am hazarding a bold suggestion, but I do so on the following grounds The problem is here the opening out of virgin tracts of country. The difficulty is to induce pioneers to come forward and perform their task Now, the success of one or two of these experimental grants will be certain to lead to a number of applications The Government would then be perfectly justified in imposing any conditions they thought fit for the success of the scheme would be assured But, as the proverb goes, it is the first step that requires inducement and encouragement I would offer the early pioneers a free-hold grant This is exactly the method that was adopted to introduce the cultivation of tea into Assam. Moreover, these pioneers will not succeed in the beginning in attracting any tenants to settle on their grants on any other terms, and there seems no reason why they should be placed on worse terms than their own tenants The time for clearance conditions, and other conditions favourable to the interests of Government, will follow, as I have said, in due course I will not deal further with this subject, my Lord, except to say that I am confident when once the ice is broken—and it will not be broken unless some such concession is accorded as I have ventured to indicate—further private capital will seek investment in the Province.

"My Lord, there is one more subject to which I desire to address myself before I conclude. It has relation to the profit derived from the administration of justice. Now, this is an item which I do not discover in the Budget Statement. The only attempt, as far as I can ascertain, to arrive at an estimate of the net cost of civil justice was in 1890 : and it is published in the Gazette of India for January 11th of that year. This I understand to be the return to which Sir Henry Prinsep referred in 1897 and in 1898 from his place in Your Excellency's Council. But we have had nothing furnished to us in the shape of a yearly statement or even a quinquennial statement since 1890. I would suggest that it would be greatly to the public convenience if the Financial Department would publish a quinquennial return of the receipts and expenditure under this head Meanwhile, I avail myself of the only sources at my disposal. I will deal only with Bengal. In Bengal, I find a steady annual surplus of a lakh of rupees given in the report on the adminstration of criminal justice for the year 1897 as the net profit during the last four years under the head of receipts and charges on account of the service of processes in the Criminal Courts. In the corresponding report for 1897 on the administration of civil justice in Bengal, we are informed that, inclusive of the High Court and the Presidency Small Cause Courts, the receipts of the Civil Courts for the year under review amounted to Rs. 1,05,13,724, and the charges to Rs. 54,75,588, including the amount realized on account of duty on probates, etc. There was, therefore, a profit to Government from civil litigation of Rs. 50,38,136, and, exclusive of this important item of Rs. 5,30,548, the surplus amounted to Rs. 45,07,588, or more by Rs. 1,15,666 than the surplus of 1896. My Lord, these are very satisfactory figures. But, as Sir Henry Prinsep pointed out in 1897, the people of Bengal derive very little benefit from the very large tax which they pay.

'This is a matter,' continued the learned Judge, 'upon which we Judges of the High Court feel strongly, and we have always felt that, whereas the revenue in this Department was really supplied by Bengal, it was swallowed up by other Presidences, and they had considerable difficulty in obtaining what they considered to be necessary for Bengal. It was, however, represented to us that it was an Imperial question, and that it was the aggregate that was to be looked to as representing the revenue and the expenditure.'

"Now, my Lord, without disputing the correctness of the contention of the Government of India or discussing it, I would respectfully ask that some portion of this surplus from the administration of justice may be expended on the High Court itself where the rates of salary and the pension rules pressingly call for attention. And I would beg in addition for the improvement of the prospects of the civil judicial officers in Bengal. It is well known that the duties discharged

by Munsifs and Subordinate Judges are onerous and responsible, and it is equally well known that they discharge them with honesty and efficiency. But, if they do not complain, it is not because they have no grievances. I would represent that the question of house-accommodation for Munsifs calls for the urgent attention of the authorities. In many places the subordinate judicial officers of Government are compelled by the lack of suitable house-accommodation to live in a manner which is not only injurious to their health and prejudicial to their capacity for work, but which, I submit, is not in consonance with the official positions they have the honour to hold. Again, their salary is low in proportion to the mass of work they have to perform: and it is notorious that they are as overworked as they are under-paid. To improve the condition and the prospects of those most deserving servants of the State is a task that appeals to me with peculiar appropriateness in connection with the large balance derived from the administration of justice. The ministerial establishments are, moreover, very inadequate and greatly require strengthening both as regards pay and status. I would express the hope that some portion of that surplus may be devoted to the purposes I have indicated.

"My Lord, I have now come to the conclusion of the observations I felt it to be my duty to address to Your Excellency's Government I have purposely dealt with matters of domestic and internal policy. These are matters which I am aware from the perusal of Your Excellency's utterances that you have deeply at heart. The people of the country have every expectation that Your Excellency's term of office will be identified with large and statesmanlike measures of internal development and expansion. The consideration of the domestic needs of India is urgently demanded. I do not exaggerate when I say that the promotion by Government of such a policy will be hailed with every manifestation of approval and of support. It is because I know that the public mind is much concerned at present with these topics, that I have tried, to the best of my ability, to represent their views, and to indicate some of the directions in which encouragement might be afforded and reform introduced, and I hope and trust my efforts may meet with favour and attention at the hands of the Government of India."

The Hon'ble MR. REES said —"My Hon'ble friend Sir Griffith Evans lately had occasion in this Council Chamber to refer to the Presidency to which I have the honour to belong, and with his pleasant humour, he called it the blessed Arcadia It is not a Member from Madras who will deny that such arcadian features as are common to prosperous and well-governed agricultural countries are exhibited in the Southern Presidency, and if my Hon'ble friend considers such characteristics are especially conspicuous in the South I shall

not quarrel with him, though we have too many lawyers and too much litigation for the parallel to be complete. But I disclaim any responsibility for the faith that is in my Hon'ble friend Mr. Smeaton, who appears to think that Madras is a land so overflowing with milk and honey that any class of its inhabitants privileged, like the Christians of the Coast, in that behalf, should take almost a pleasure in the payment of an additional impost. I have said nothing by way of concurrence in such a creed.

" Admissions, however, partake of the nature of indiscretions,and it would be difficult for me, after what I have said, to enter on any adverse criticism of the Budget. I cheerfully, therefore, leave all that to my Hon'ble friend Mr. Ananda Charlu, who possesses, if I may say so in his presence, the rare gift of being able to treat controversial subjects in an equally forcible and genial manner. I am, however, glad to see that the Hon'ble Finance Minister, with his latest official breath, also makes some admissions regarding our Presidency that are pleasant reading to my Hon'ble friend and myself. It shows 'a very progressive revenue, rapidly increasing up to the famine year, which only temporarily interrupted the advance.' With Bengal, 'it shows the largest increase under assessed taxes due to progressive revision and general improvement in the administration.' Again, 'the revenue in Madras is improving in the manner characteristic of the Province.' To quote more might appear vain-glorious, and enough has been said to show that Sir James Westland shares that appreciation which in his heart every Finance Minister must have of the well-paying Presidency of Madras. In consideration, however, of the strain upon its resources resulting from plague and famine, and by way of free grant, upwards of 15 lakhs in all are contributed by Imperial to Provincial in 1898-99, and a grant of upwards of 6 lakhs is made for next year's direct famine and plague expenditure. Whether or not we are arcadian, we are certainly practical, and no part of the Budget interests Madras more than the Railway chapter.

" Now that the East Coast Railway is completed, and the Bezwada-Madras line is open, a suitable provision of twenty lakhs is made for the Godavari bridge, after the completion of which the railroad will be continuous from Cuttack to Madras.

" Of the large grant of Rs. 1,77,00,000 provided for the Bengal-Nagpur Railway, the lion's share will be expended on completing direct connection between Cuttack and Calcutta. When this is accomplished the question of the agency or agencies to be employed for working the whole length or sections, as the case may be, of the line, and the question of rates, will have to be decided, and the

legitimate claims of Madras commerce will require careful consideration. In addition to the many and large interests already concerned, it is probable that in future fine salt, fit to compete with that of Cheshire, will be manufactured in large quantities on the Coromandel Coast.

"Ten lakhs are provided for Madura-Paumben, and seven lakhs for the Tinnevelly, or British portion of the Tinnevelly-Travancore Railway The Durbar has accepted the proposals of the Government of India, preliminary work is in progress on the British section, and will, no doubt, be commenced on the Durbar's section in the financial year which begins next week.

"The Shoranore-Cochin Railway is entered in Appendix C, and the estimate at ninety lakhs. It has, however, moved up and its circumstances have altered, for the commencement of work has actually been sanctioned on the first thirty miles, and, as the line is to be constructed on the metre gauge, the cost will probably not largely exceed fifty lakhs. His Highness the Raja is prepared to find the funds and nothing is likely therefore to delay action.

"Not much longer will the rich and interesting States of Travancore and Cochin be cut off from the rest of India, and their present enlightened Rulers will long be remembered for the encouragement they have given to great works of all kinds likely to increase the prosperity of their people.

"The Ammayanaikanur-Guruvanuth Tramway is not so long as is name would imply. Though short (75 miles), it is, however, by no means unimportant, as it will open out two important planting districts and a large tract of plain country. That the Government of India should have approved this line is satisfactory, and, as its construction by a private company is contemplated, there is nothing apparently to prevent its speedy completion if private enterprise proves, as there is every probability of its proving, equal to the occasion.

"For the Calicut-Cannanore extension twenty lakhs are provided. Orders have, it is understood, issued to commence work, and the line will be constructed as a light broad gauge line capable of conversion, if required, into metre gauge.

"All these railways, with the localities to be served with which I am well acquainted, will prove of the utmost advantage to the people, the Government, and to important interests concerned, and by expediting their construction the Government of India will contribute in no small degree to strengthening that conviction of the identity of its aims and interests with those of Local Govern-

ments, which should always obtain. When in addition the Nilgiri Railway is opened to traffic, and extended to Ootacamund, an extension already approved, and when the various protective light lines recommended by the Madras Government have been constructed, the people of the Presidency will be fairly well provided with railways, though there are others which would no doubt pay, and should, if possible, be constructed. The present Governor of Madras is the first who has travelled by rail from Calcutta to his capital, and I hope, and the inhabitants of Southern India hope, Your Excellency will be the first Viceroy to take the train to Travancore over the hills at the end of the Peninsula, to return by rail from Cochin to British India, and possibly even to travel on by the metre gauge all the way to Bombay.

"Among the more important decreases in revenue noticed in the Revised Estimates, Madras is responsible for one due to the fall in the sales of land benefited by the Peryar Irrigation Scheme. The Government of Madras has been, and is, busily engaged in investigating this matter, and it is earnestly hoped that the scheme will ultimately prove as remunerative as was expected. Careful revenue estimates were made before it was commenced, and it is altogether too early yet to say that they will not be realized. All that caution and circumspection in the extension of irrigation which the Hon'ble Sir Arthur Trevor and His Honour the Lieutenant-Governor declared to be so necessary on the occasion of the Budget debate of 1897 were exercised before this great work was undertaken.

"The completion of the Bangalore water-works is a matter for congratulation, not only to Bangalore and the Mysore State, but to all Southern India, which is interested in the well-being of that favoured city.

"To Madras proper it is most satisfactory that the Budget estimate of land-revenue charges includes an increase of Rs. 3,87,000, for the too long postponed improvement of the position of taluq and village establishments, a very important measure, and the extension of survey and settlement.

"Your Excellency has already stated how important you deem it that European capital should be attracted to this country. I venture to say that if the Government of India can see its way to allowing extradition, or making some arrangement of the like nature, between the Madras Government and the neighbouring Protected States, in regard to breach of contract, a useful step in that direction will have been taken. Since I endeavoured in vain to bring this about when the Extradition Act was under amendment in 1896, the planters have

been proved by the publication of the report of the South India Planters' Enquiry Committee to be, as down South we all knew them to be, just and generous employers of labour, and they really suffer undeserved, and in some localities not inconsiderable, loss under the existing law. Whether or not the far greater loss they suffer from the appreciation of silver is merely temporary, this loss at least is constant and preventible. The planters are confident that they, like other producers, will receive the sympathetic attention of Your Excellency's Government.

"In like manner any simplification of rules, delegation of authority, and relaxation of restrictions imposed in regard to mining applications, and any action tending to lessen the disheartening delays, which are under the present system unavoidable, would greatly assist Local Governments in encouraging the introduction of foreign capital

"The remarks made last year by my Hon'ble friend and predecessor Mr. Nicholson, an eminent authority, regarding the development of rural banks, derive additional weight from those made just now on the same subject in the House of Lords by Lord James of Hereford, when introducing the Money Lenders Bill. The Duke of Argyll has also given the movement his support, and in this country, far more than in England, is the adoption of some system similar to the German loan banks, for developing co-operative rural credit, worthy of the attention of Government.

"Finally, I would add my congratulations to those of my Hon'ble friend the Maharaja. I have heard the Finance Minister described as an incurable optimist, but it does not now appear that he has in the past taken too favourable a view of India's finances, and in view of the Budget now presented for the last year of the century, critics of this class must stand confounded."

The Hon'ble MR. SMEATON said:—"My Lord, I am not going to take any excursion into the regions of Imperial finance. My remarks shall be brief and prosaic. But I cannot avoid noticing two salient and encouraging features of the Hon'ble Financial Member's lucid statement. The first is the steady relief being given to the Indian revenues from the burden of debt. The interest now charged against Indian revenues is not very much more than one-half of the amount charged twenty years ago, and this very satisfactory improvement is due to the progressive earnings of the railways and irrigation works which have been constructed from borrowed funds. The remarkable recovery of earnings made by these railways in the year just closing shows how the burden of debt continues to be lightened. The next feature is the satisfactory

expansion of the salt-tax and the concurrent cheapening of salt to the people of India. The duty is now lower (except in Burma) than it was twenty years ago: the extension of railways has brought down prices to a figure which could hardly have been anticipated; the pressure of the salt-tax is now much lightened. I think, my Lord, that these two features of the situation disclosed in the Financial Statement are most encouraging. The Hon'ble Sir James Westland has announced that, notwithstanding the substantial surplus of the year now closing, Your Excellency's Government does not propose to make any remission of taxation at present. This announcement will probably prove unpalatable, but I cannot help thinking that the decision of Your Excellency's Government is sound and right, not only, although largely, because, as the Finance Minister says, it is necessary to maintain a strong financial position in view of pending currency reform, but also because, I think, it would hardly be safe for a prudent Government to relinquish any important sources of revenue on the faith of a surplus of one single year. The instructive analyses of comparative surpluses of two periods given by the Finance Minister in paragraphs 69 and 70 of the Statement, coupled with the anticipated surplus of 1899-1900 (even at the modest rate of exchange adopted at $15\frac{3}{4}d.$), indicate a hope that perhaps within a measurable period of time Your Excellency's Government may be able to consider favourably the question of abolition or reduction of certain forms of direct taxation.

"It has been a pleasure to me to notice that the Finance Minister has, in Sections II and III of the Statement, given as many as nine good conduct marks to Burma—more, in fact, than he has bestowed on any other province; and I hope that in consideration of this good behaviour of the province—certified by one so hard to please as Sir James Westland—Your Excellency will permit me to make a few observations in the interest of the trade of Burma.

"The majority of the Burmese are agriculturists, but every man and woman is a trader, and a keen trader, notwithstanding that (as the Financial Member will now probably admit) he does not love and won't use currency notes. Agriculture in the province is satisfactory, cultivators' profits are good, sometimes handsome: the Government advances are taken with alacrity and have, I am glad to say, already caused a sensible reduction in the rates of interest charged by money-lenders. The programme of assessment of land in Upper Burma has been, partly at least, satisfactorily settled at last. Railway and road extensions are progressing fairly, but hardly perhaps so well as might be wished for. There are many remote land-locked tracts which need to be

opened out · and one very costly line—the Mandalay-Kunlon—is not likely to be either commercially or financially a success at least for a long time to come. I am glad to learn that sufficient funds have at last been provided for an adequate construction programme during the coming year. The Provincial Contract with the Supreme Government is liberal, and I hope it may continue so. Now, my Lord, to come to the matter in regard to which I solicit a concession. It is not the rice export-duty that I suggest should be remitted—for the very good reason that it is paid, at present at least, by the consumer—that is to say, the foreign consumer: and I cannot conceive of any more legitimate asset than the tribute paid by foreign consumers of products of our own provinces. The Burma cultivator occupies a strong position and practically commands his own price within the usual limitations imposed by custom and trade his rice has, I believe a special 'ticket' in the markets of the world, he is very independent, and long may he remain so. It is not he, therefore, who pays the duty; he makes the foreign consumer pay it. Germany is a large consumer: thousands of tons of Burma rice are imported into her ports—Bremen, Hamburg and others: and this rice emerges from these places in the form, I believe, of Lager beer, and I am told, good old Scotch whisky made in Germany It seems to me that the Government of India may well congratulate itself on recovering the duty on the rice from these foreign distillers and other consumers. Of course the tables may be turned and serious competition may arise with the rice of Japan, Siam or French Cochin China, in which case the duty may be shifted on to the shoulders of the Burma producers. When this change takes place it will be justifiable to abolish the duty so as to place the Burmese producer on equal terms with his rivals. But that time is not yet It is not, then, the rice export-duty in regard to which I have to ask indulgence. It is in regard to the management of the large rice trade. Difficulty is sometimes experienced in Rangoon in financing the enormous rice trade aggregating 10 to 12 crores of rupees. The Government balances in the beginning of the export season amount to about 2½ crores of rupees. These large funds are made over, by arrangement, to the local Presidency Bank—the Bank of Bengal—at a fixed rate of exchange; and I may say, parenthetically, that so far as I know this arrangement is confined to Rangoon. The Comptroller General refuses to sell transfers of funds on Rangoon to the commercial public, who are thus compelled to make their remittances through the Bank of Bengal at enhanced rates. The Comptroller General does sell transfers on Bombay, Madras, and even Karachi: and it seems a little hard that the Rangoon commercial public cannot have the same advantages and facilities as Bombay, Madras and Karachi—so long, that is to say, as funds are available in Rangoon. The result of the present (I think I may call it without impropriety

a monopoly) arrangement and of the measures naturally taken by the Bank of Bengal to make profitable disposal of the Government balances—is to create sometimes an artificial stringency in the local money market to the detriment of trade. I would venture to suggest that either a share of the Secretary of State's Council Bills be issued for sale in Rangoon during the busy season when funds are available to meet them, or that the Government balances be thrown open to the commercial public in Rangoon just as they are in Bombay, Madras and Karachi, by sale of transfers. During the latter part of the year, when bankers, chetties and others are remitting their surpluses back to India, the Comptroller General sells transfers on Calcutta and Madras. The mercantile public naturally ask why, when the Comptroller General reverses the operation, they should alone be debarred from getting transfers on Rangoon when funds are available. The result of either of the alternatives which I have suggested would be greater ease and certainty in financing the large rice trade at the most critical season. As I have already said, trade in Burma is universal, and the prosperity of the province is very much bound up with trade. Facilities and conveniences given at the ports will re-act favourably on trade in the interior. Burma occupies a unique position, geographical and political—the bridge between the near East and the far East, and the outpost of the British Empire abutting on the Chinese and Siamese frontiers and on the frontier of a French dependency. In certain eventualities Burma may be of great help and use to the British Government, and if she is to be in a position to be of use and of help she must be as prosperous and as strong as possible. There is no better way of achieving this end than by fostering the trade of the province; and I therefore hope that the suggestions which I have ventured to make will receive the favourable consideration of Your Excellency's Government."

The Hon'ble MR. SPENCE said:—"I did not intend to interpose in this debate, but on behalf of the unfortunate Presidency which I have the honour to represent I should like to make a very few remarks Anybody who has read the Financial Statement will see that the Presidency of Bombay is in a most parlous condition as regards its finance. We start the year without any balance at all, and we are practically left on the charity of the Government of India. There may be difference of opinion as to the bountifulness of the charity which has been doled out to us, but on the whole perhaps there is no reason to complain. When you have no money to spend and everything has to be cut down as far as possible, no improvements can be carried out and all useful works are likely to deteriorate. I trust that before the Finance Minister leaves the country he will pass on to his successor a good word on our behalf that we shall be treated in the future as generously, or perhaps more so, than we have been in the past."

The Hon'ble NAWAB FAIYAZ ALI KHAN said —" My Lord, it is naturally gratifying, both to the Government and to the people, to find that the calamities of war and famine, plague and earthquake, which, so to speak, had all conspired together to embarrass the finances of the Government during the two years preceding the year now coming to its close, have happily all taken wing, leaving behind the plague alone, and I must sincerely congratulate the Hon ble the Finance Minister that, along with a deficit of Rx 5,360,000 at the close of 1897-98, he has been enabled to declare a realized surplus of Rx 4 060,000 only one year afterwards and to estimate a further anticipated surplus of Rx 3 930,000 in the Budget for 1899-1900, which two items added together more than cover the heavy deficit incurred during the preceding year

" My Lord, the most encouraging feature of the Financial Statement, the preparation of which is a task of very great difficulty, is that, the financial position of India being good, it will not be necessary for the Government to raise a loan to meet its necessary expenses

" With so many cheering signs of returning prosperity now before our eyes, it is most discouraging however, my Lord to find that the dire epidemic is not only still continuing to make fearful ravages in the Bombay and the Madras Presidencies, but, to our dismay, has also made its appearance in this metropolis of India

" With peace on the North-West Frontiers and the consequent little provision in the Budget for warlike operations, it would have been unmixed good had the Government had on this occasion the satisfaction of declaring that no provision was to be made for plague operations, as there existed no such thing in the country Unfortunately, however, my Lord such is not the case But I feel sure, and this feeling is, I believe, shared by everyone present here to-day, that no one more sincerely regrets than Your Excellency that with plague still doing havoc in the country it should have been found necessary to provide the large sum of sixty-one lakhs of rupees to prevent its spread

" In this connection, my Lord, I may be permitted to state that, as far as I have been able to judge the measures adopted by the Government to prevent the spread of plague to the uninfected parts are the only effective measures that could be adopted with any chance of success

" My Lord, I feel that I should not conclude this theme here without expressing my gratitude to the Government of India and to our Lieutenant-Governor, Sir Antony MacDonnell, for organising vigorous measures to prevent

this dire calamity. I find that more than one and-a-half crore of rupees will have been spent on these operations from the date of the arrival of the plague in India to the end of the next year; and I feel no doubt that the people of the North-Western Provinces and Oudh, who have so far remained almost safe, feel sincerely grateful to the Government not only for the large sum which the Government is spending on this head, but also for the modifications in the rules so wisely made to suit the state and condition of their society. That the people are gradually realizing the importance and value of these preventive and remedial measures and have begun to appreciate the benevolent intentions which induced the Government to adopt them, is sufficiently clear from the non-occurrence of the disastrous riots which unfortunately took place in some parts of the country during the early days of the outbreak.

"I pass on now to famine. That, my Lord, as observed by the Hon'ble Sir James Westland, 'is now little more than a memory, its effects being obliterated by the return of prosperous seasons.' But the Hon'ble the Finance Minister draws one lesson from the fact of the wonderful recovery of the country from the effects of the late famine, a lesson by which I have no doubt the Government have profited:

'I cannot however, pass on from this subject,' says the Hon'ble Sir James Westland, without deriving from it one lesson which it seems to me to afford, namely, that the margin between prosperity and adversity in India must be a very narrow one; for if we have learned that one bountiful harvest suffices to restore the country after a widespread and severe famine, we have learned also that the failure of the seasona rains in a single month of the year is sufficient to set back a full tide of prosperity, and that this is a possibility which in the administration of India, and in its financial administration especially, we dare not leave out of account.'

"Now, my Lord, in my humble opinion, there are only two means of securing India from the effects of famine, namely, (1) extension of railways, and thus improving the means of import and export, and (2) extension of canals, and thus adding to the facilities of irrigating land which for want of rains might remain uncultivated.

"My Lord, opinions differ as to which of these two things is more useful and serves better purpose in time of need. But I am not inclined to enter into any elaborate discussion as to the merits of the arguments advanced by both sides in support of their respective theories. Speaking entirely for myself, I am free to say that, in my opinion, both are equally useful and both can add materially to the prosperity of this country.

"As regards railways, I note that on the 31st March, 1899, the total length of open lines of railway will be 22,650 miles; and there is no halt to the march of progress, Rx. 8,820,000 having been provided for the next year.

"The Famine Commission estimated in 1880 that in order to efficiently secure India from the effects of famine there should be 20,000 miles of railways instead of 10,000 which existed at that time. We have now more than 20,000 miles open; and the advantage of the railways has been fully proved in the recent famine. They enabled the Government to save many lives which would otherwise have been lost; and in no part of India was the mortality excessive.

"My Lord, the revenue account of railways and irrigation works is to me a most interesting part of the Budget. The net earnings of these productive works have risen within the last twenty years from Rx. 5 millions to Rx. 14 millions, and, apart from the influence of these works on the prosperity of the country and the incalculable benefit they have conferred on its external and internal trade, they have reduced the burden of debt in spite of large sums borrowed for construction.

"In the North-Western Provinces, the construction of the Fatehpur branch of the Lower Ganges Canal is now practically complete; and important gaps of railway communication have been or are being filled up The Ganges-Gogra Doab system carried out under the auspices of the Bengal and North-Western Railway Company will open out the districts of Azamgarh, Ballia and Ghazipur, and we shall have also the Rae-Bareli-Benares line, the Moradabad-Ghaziabad Railway, the railway from Hardwar to Dehra and from Shikohabad to Fatehgarh—all important and useful lines.

"My Lord, before passing on to the consideration of the question of the remission of taxes, I may be allowed to express here the feelings of gratitude of the people of the North-Western Provinces and Oudh to our Lieutenant-Governor, Sir Antony MacDonnell, for the complete and successful organisation of his measures of relief during the late famine. Personally His Honour was indefatigable, and his own earnestness in the cause of the suffering and the high ideal of duty set by his own example infused a new spirit in others who worked under him. The success in combating the famine in the North-Western Provinces was due to his own organization, aided no doubt by the large sum of money which the Government of India placed at his disposal. And the people cannot easily forget his sympathy with them at such a hard time.

"My Lord, having made my observations in regard to the points that occurred to me, it should now have been my pleasant duty, in view of a fairly large surplus realized and another surplus likely to accrue in the coming year to urge respectfully, on behalf of the people whom I have the honour to represent, upon Your Excellency's Government the desirability of remitting some of the taxes, particularly the special rate of 2 per cent. on the r evenue levied on account of famine insurance from the owners of land subject to periodical assessment. But I have refrained from urging any such request upon Your Lordship for the simple reason that it has already been decided—and I think wisely—not to propose to remit any taxes at the present time.

"The country, my Lord, it is true, has recovered from the effects of the late famine wonderfully well, but it is only just recovering and has not recovered completely; for who does not know that the threatened failure, partial though it may be, of the crops in some districts in the Central Provinces, may result in scarcity, if not in actual famine; and the Government may have to undertake measures of relief on an extensive scale.

"With measures of currency reform still expected, with plague still continuing to expand and develope, and with threatened scarcity—if not actual famine—still staring us in the face in some of the districts in the Central Provinces, it is obviously desirable to maintain as strong a financial position as possible; but I hope that when the anticipated surplus is realized, when plague and famine disappear altogether, and when the stability of the exchange value of the rupee has been secured, the Government will find themselves—I hope at no distant time—in a position to remit some of the taxes which press hardest on commercial and landed interests. Indeed, I have no doubt whatever in my mind that nobody would be more earnest than Your Excellency in acknowledging the desirability of proposing these remissions when the time of solid prosperity arrives.

"To sum up, any proposals of this kind should, I think, be entirely left to the Government; for we must know that they would not continue a pice of any of the undesirable and unnecessary taxes as soon as their financial position is placed on a firm and stable basis.

"My Lord, before I conclude, I beg Your Excellency's permission to say a few words which will refer to you personally.

"Your Excellency's assumption of the exalted office of Her Majesty's Representative in India under exceptionally favourable circumstances, is a happy

augury of the welfare and progress which this portion of Her Majesty's Eastern dominions is likely to achieve during the five years of Your Excellency's *regime*. Your Excellency's personal experience of Indian thought and politics, and your thorough knowledge not only of the constitution of Eastern society but also of Eastern prejudices, will, we feel sure, help Your Lordship in the administration of this country, and guided as you will no doubt always be by your keen sympathy for the people of this land—that sympathy of which we have had ample proof during the short period that has elapsed since Your Excellency took over the charge of the arduous duties of the Viceroy of India—we feel confident that India will continue the march of progress and will continue to enjoy the blessings of peace, prosperity and contentment."

The Hon'ble MR. MEHTA said:—"A surplus, my Lord, like charity, covers a multitude of sins, especially when coming on the top of years of great anxiety, distress and deficit. Any attempt to moralize on the uncertain and deceptive character of the present smiling appearance of Indian finance—like unto Dead Sea apples, goodly to look at but not quite sound at the core—would be drowned in the general chorus of congratulations. But to do my Hon'ble friend justice, he has himself sounded the right note of warning, lest we forget, and pointed out that while the present prosperous Statement sets out a very favourable condition of finance, some of the favourable elements are temporary only, and the extremely rapid recovery of the financial position is in itself a warning that the possibility of sudden reversal of the tide of prosperity (which the failure of a single month of seasonal rainfall has proved sufficient to effect) can never be left out of account in the financial administration of India. These are words of wise warning from one with whom it is possible to differ on many points, but whose ability and intimate knowledge and experience of Indian finance are beyond question. It is possible to emphasize this warning still further. If a *diabolus advocatus* were asked to pick holes in the character of this surplus, as it is said he is called upon to appear and pick holes in the character of a saint before his canonization, a verdict altogether in its favour might not be quite easily won. Of the improvements on the estimates for the year now expiring, amounting to Rx. 3,870,000, gain in exchange accounts for Rx. 1,070,200. Now, though I know that the idea that this gain is only a very indirect form of taxation is scouted as utterly unfounded and untenable, still it is very difficult to believe that it is a golden shower from the skies and that it does not ultimately come in some way from the pockets of the people, perhaps of the agricultural classes, or, at least, that they are not better off by that amount as they otherwise might have been. Another important item of increase is that of the collection of land-revenue. It is a remarkable fact

that suspensions of land-revenue owing to famine have been realized very nearly to the full extent in the very next year after it ceased, with the advent of the first good season. This phenomenon has been read as testifying to the astonishing recuperative power of the agricultural population. But signs have not been wanting to show that a portion of this phenomenon at least is probably occasioned by the rigidity with which revenue assessments are collected under a rigid land-revenue code which has completely done away with the interference of the Civil Courts even to the small extent to which it formerly existed. I know that my Hon'ble friend asserts that this rigidity, which was incautiously admitted by Sir Theodore Hope in this Council, was only a condition of things which existed eighteen years ago, and that the Government of India had since applied effectual remedies. I should like to know what those effectual remedies are, so far as the Bombay Presidency is concerned. Speaking in 1891—which is not eighteen years ago—the Commission appointed to enquire into the working of the Dekkhan Agriculturists' Relief Act reported that 'there could be no question that the rigidity of the revenue assessment system is one of the main causes which lead the raiyats of the Dekkhan into fresh debt.'

"When the amendment of the Dekkhan Agriculturists' Relief Act was undertaken in this Council in 1894-95, it was found that the Bombay Government, or rather the Revenue-officers, resented this part of the report as the ignorant meddlesomeness of strangers from other Provinces who were incompetent to appreciate the beauties of the Bombay revenue system. Though it is open to Revenue-officers to grant remissions and suspensions, and though the Government of Lord Ripon impressed upon the Local Government the propriety of active well-judged moderation in this behalf, the rigidity and inelasticity of the Bombay system continue unmodified. I do not think it right to abuse the latitude which the President of the Council allows on the occasion of the discussion of the Budget by enlarging further upon an incidental topic. I have referred to it for the purpose of showing that, under these circumstances, it is not a matter of unalloyed congratulation that suspensions of land assessment have been so largely recovered within the very next year of the cessation of famine and scarcity, and have contributed to swell the surplus of the running year.

"Large as this surplus is, it is a matter of surprise that the Financial Member has not adverted to a circumstance in which it would probably have been much larger. It was so far back as May, 1895, that the Royal Commission on Indian Expenditure was appointed. It finished the work of taking evidence in July, 1897; and there has been a sanguine feeling throughout the country that

a strong case for an adjustment of burdens favourable to the Indian Exchequer had been established. But, after weary waiting for close upon two years, the end seems to be as far off as ever, and nobody can say when the consideration of the report will be taken in hand. It is impossible not to deplore this extraordinary delay, fraught as it is with possibilities of mischief in stimulating imaginary suspicions and suggestions as to its real cause.

"The surplus would have again been larger if the action of the Government of India had not lost to the country a contribution from the British Exchequer on account of the late war on the Frontier. Such contribution was due to India, not as a matter of charity, but as a matter of just and equitable right in the distribution, to put it at the lowest, of joint Imperial burdens, exactly as they had been recognized on previous occasions. The financial independence of India does not require that it should not claim and receive its share of partnership burdens from the predominant partner, just as that partner, for example, claims and receives every farthing, and perhaps more, of the cost of the army while doing duty in India

"It is too late, however, to cry over spilt milk; and, in dealing with the surplus such as it is, the proposal to devote a small portion of it to the necessities of the famished Provincial Exchequers cannot but meet with unanimous approval. But, my Lord, I trust I will not be charged with the meanness with which Oliver Twist was always asking for more, if I urge that the Presidency from which I come is not treated with that full justice which it deserves. I do not for a moment grudge the thick slice which Bengal has managed to obtain of the pudding, though I admit we are somewhat jealous of its opportunities to whisper in the ears of His Excellency the Viceroy in Council and his Finance Minister from one side and the other. I am sure I wish it joy of all that it has known to extract from the clutches of the jealous guardian of the Imperial Exchequer. But it cannot be denied that the Bombay Presidency has been far more sorely and grievously tried by plague and famine combined than the Presidency of Bengal. But while Bengal gets the same grant of 15 lakhs of rupees as Bombay, it is in addition to the assistance undertaken to be given towards the European General Hospital at Calcutta, which, I believe, means a further grant of 10 lakhs of rupees, and also in addition to a further sum of 2 lakhs as mentioned in paragraphs 51 and 60 of the Budget. It therefore comes to this, that the more stricken and more distant province gets only 15 lakhs, while her more fortunate sister secures 27 lakhs My Lord, the Bombay Presidency deserves better and more liberal treatment than this. I will very briefly and rapidly state a few facts which will show that this is not an unjustifiable claim. As the

Council are aware, the system of Provincial contracts was instituted by the Government of Lord Mayo in 1870. The arrangement then made was a very tentative one and limited in its scope , but it achieved such a measure of success that in 1877 the present system of quinquennial contracts was designed and the limits of the arrangement were considerably enlarged. It so happened, however, that the commencement of the second Provincial contract (1877-1882) was conterminous with the great famine of 1877, which exhausted the resources of the Provincial Government at the very outset so completely as to compel the Government of India not only to bear the greater part of the burden of relief, but even to find money for the Provincial Government to go on with—a situation very similar to the one which the Province has had recently to pass through. I beg the attention of the Council to the way in which it was thought right, under such circumstances, to deal with the Presidency when the time came in 1882 to make a fresh contract. Though by that time the Provincial Exchequer had recovered itself to a considerable extent, the Imperial Government thought that it was a proper and fitting occasion to grant it more than usually favourable terms This liberal policy had its own reward. At the close of the third contract in 1887, the Presidency had built up a surplus balance of 32 lakhs of rupees beyond the irreducible minimum of 20 lakhs for working balance which it was required to maintain. This was a little too tempting for the Imperial Government, and when the fourth contract was revised in 1887-88, the shears were pretty closely applied, and it cut from the Provincial assignment a sum of 22 lakhs a year—a sum which, as the Hon'ble Mr. James pointed out the other day in the Local Council, represented one-third of the entire grant resumed from the whole country altogether. The result was that Bombay contributed 110 lakhs during the five years of that contract. This was followed in 1890-91 by the levy of a special benevolence of 17½ lakhs. When the contract was next revised in 1892, Bombay had to yield 13 lakhs a year out of 47 lakhs resumed from all the Provinces, or nearly one-third of all India's contributions, that is to say, 65 lakhs during the period of the fifth contract As it is the most loyal and patriotic who are most expected to bleed for their country, I think it will be admitted that Bombay was made to bleed pretty freely to maintain its high reputation for those admirable qualities. The least that it could have expected under these circumstances was that, when it was overtaken by dire distress and misfortune, it should have something better than what Job got from his comforters. The close of the fifth contract found Bombay plunged in an unprecedented combination of calamities. Famine and plague joined their forces. No wonder that its treasury was soon depleted.

The sixth or current contract has been now settled on the same terms as the last, though the Government of India delayed its settlement till the second year in the hope that they might be able to screw out, as on previous occasions, a further annual contribution of at least 10 lakhs. It is true that the bulk of the famine expenditure has come from the Imperial treasury, as it was bound to do on the exhaustion of the Provincial resources. But, even so, the new contract leaves the Presidency in a situation of great gravity. I will not trust myself to describe this situation, but will rely only on official sources. In presenting the Financial Statement last August, the Hon'ble the Revenue Member said :—

'For the first time since the famine of 1877, the year opens with a balance of *nil*. Negotiations have been in progress with the Imperial Government regarding the final assessment of plague and famine charges; and the present position is that the Imperial Government have undertaken the whole cost of the famine operations and have granted this Government special contributions of Rs. 9,91,000 in 1897-98 and Rs. 7,00,000 in the current year in recognition of plague expenditure; they have, however, refused to place at the credit of this Government any sum for the reconstitution of the Provincial balance, and have directed that, with the assistance of such recoveries as are due from local funds on account of famine charges borne by general revenues, this Government must build up its balance to the prescribed minimum of 20 lakhs by savings from current income—a laborious and thankless task not easy of accomplishment.

'The process of exacting recoveries from local funds is likely to be slow, and in the current year the sum expected to be derived from such recoveries amounts to Rs. 79,000 only. It has been necessary to enforce economy upon all departments with what cannot fail to be regarded as ruthless severity, and in particular to reduce the grant for Civil Works to a point which forbids the entertainment of new projects and barely suffices for the prosecution of works in hand. It is obvious that the Budget herewith presented to the Legislative Council can only be an object of melancholy contemplation.

'The Local Government is financially, to use a nautical phrase, on its beam ends. Its own resources are exhausted and it has to subsist for the present on the charity of the Government of India. The outlook is unpromising, and it is to be feared that for years to come attempts to improve the administration, to provide the additional staff and establishment so urgently needed in more departments than one, and to promote the progress—material, educational and other—of this Presidency will be most seriously crippled, if not rendered impossible, by the lack of the requisite funds.'

"In the debate that took place on this Financial Statement, the Hon'ble Mr. James, then temporary Member of Council, gave a humorous instance of the straits to which Government were reduced.

'I am not sure,' he said, 'that my Hon'ble friend the Legal Remembrancer would not hold that we have really laid ourselves open to the criminal misappropriation clauses of

the Indian Penal Code. It is a fact that a subscription of Rs 17,000, which Government promised to double, has been credited in our revenues and swallowed up, and if we were asked to produce it, much less the corresponding grants promised, we could not do so, at any rate at the present moment.'

"But it is more serious to contemplate that the Civil Works grants were reduced from by no means the high average of 36 lakhs to less than 27 lakhs (actuals) in 1897-98 and to 29 lakhs in the budget for 1898-99, but which was to be further reduced. The above forecast was made in August of last year, when there was some lingering hope that we had seen the last of plague. But unfortunately we have been visited with another outbreak as, if not more, severe than the last. In view of the whole situation, I do not think it can be said that, in the negotiations for the new contract, the Bombay Government were asking anything excessive when they asked the Government of India to increase their assignment by 13 lakhs a year, *i.e.*, to say 65 lakhs for the period of the contract But the Government of India were inexorable, and they thought they had done quite enough when they reluctantly refrained from shearing off the 10 lakhs a year they had set their hearts on. Now, while the Government of India were supposed to be in dire straits themselves, it was possible to extenuate their hard-heartedness to the Provincial sheep, though it made their refusal of a contribution from the British Exchequer less excusable. But with a surplus of 4 crores and 76 lakhs for the closing year and an estimated surplus of close upon 4 crores for the Budget year, I submit that the Presidency is entitled to be placed in a normal position throughout the whole of the contract period. Instead of that, what we find is that, as stated in paragraph 57 of the Budget, even after receiving a further grant-in-aid of about 22¾ lakhs, the Province will be left, on 1st April, 1899, with an opening balance of *nil*. The only further relief that is given is a grant of 15 lakhs in the accounts of the year 1898-99, that is to say, out of a surplus of close on 4¾ crores, and the same amount (less the excess expenditure already provided for in the Provincial estimates), an uncertain sum, in the Estimates of 1899-1900, out of a surplus of close upon four crores which is likely to be much more as the rate of exchange has been taken a farthing less than might be reasonably anticipated. I have pointed out above how this relief is considerably less than that granted to Bengal under less afflicting circumstances. But, independently of such a consideration, I venture to submit respectfully that wisdom and justice and liberality all require that the overflowing Imperial Exchequer should set up the Province on its legs again, firstly, by taking up all direct plague expenditure; secondly, by making grants sufficient to restore to their normal health the departments that have been starved so long and have grown so lean; and, thirdly, to start the Province with the minimum working balance

of 20 lakhs. To treat plague expenditure as anything but Imperial would be both a hardship and an injustice. It has been regulated by Imperial considerations has been incurred under Imperial directions, and has been disbursed under Imperial agency. In the case of the smaller municipalities living from hand to mouth, their income is absolutely inadequate to meet the burden, and they can discharge it, even gradually, only by sacrificing all sanitary progress for years to come. Even in the case of a city like Bombay, supposed to be wealthy, the large surplus balance, it had carefully built up is swallowed up; it has had to undertake the liability of paying 5 lakhs a year in addition to large revenues from many valuable properties for the improved reconstruction of the city, and it is now levying the maximum rates which it is entitled by law to levy. I may add that Bombay is the only city in all India which is compelled to pay three-fourths of the cost of the city police, amounting to over 5 lakhs of rupees, which was first imposed on it on the understanding that a uniform system would be introduced over the whole country, under which every town would pay for its own police, but which was continued even when the introduction of a uniform system was abandoned. Neither Calcutta nor Madras bears a similar burden. The only just course under such circumstances is to treat the calamity as a visitation of Providence, for which no part of the country should be made to suffer by itself, and to regard all plague expenditure as a joint liability on the general revenues. With regard to the restoration of Civil grants to their just requirements and the provision of a minimum working balance, it has to be remembered that the mischief done in the last two years has to be repaired. To take one instance only, the expenditure on Civil Works had to be curtailed to 26 lakhs, when, as I have pointed out above, it should have been something like 36 lakhs. Such curtailment does not only mean multiplication of future liability, but it also involves the necessity of making good the deterioration caused by delay. It seems to me that, when the Bombay Government asked for an increased annual assignment of 13 lakhs, they were asking for nothing more than what was essential for the welfare and progress of the administration under their charge. If it was not possible to accede to their demand in a time of trouble and deficit, surely now that there is a large surplus it is but fair that the Presidency should be now placed in a position in which it would have been if the necessary increase had been allowed in the settlement of the current contract. Nothing is more ultimately paying to the Imperial Exchequer than investments in the growing welfare and progress of the different Provinces. I may assure my Hon'ble friend that no congratulations on the prosperity Budget which he has presented to the Council will be more fervent or sincere than those of a Province grateful for being called upon to

share that prosperity and for being furnished with the means of recovering its lost health and vigour after having suffered so long and so grievously as the Bombay Presidency has done."

The Hon'ble MR. ALLAN ARTHUR said:—"My Lord, I would congratulate Your Excellency's Government and the Hon'ble Sir James Westland on the prosperous condition of the finances of India, as disclosed by the Budget. That he can hand over to his successor the portfolio of the finances of India in what may be termed a 'record' condition after the peculiarly troublous times of the last few years must be a matter of intense satisfaction to the Hon'ble Member, whose constant readiness and uniform courtesy in listening and agreeing to all reasonable demands, brought forward in the interests of commerce, I should like to take this opportunity of acknowledging on behalf of the mercantile community of Bengal.

"My Lord, when an individual becomes possessed of a large sum of money either by his own exertions, by the prosperity of his business or otherwise, the fact is generally brought home to him by the receipt of subscription books and requests to give of his wealth to others. In like manner the Government of India will probably have laid before them, sooner or later, schemes of various kinds having for their object the dissipation of part of the splendid surplus which the Budget reveals. The mercantile community of India are unanimous in pressing for a reform which has been too long delayed, and which might possibly trench to a small extent on the surplus. I am not going to ask the Hon'ble Member to abolish the income-tax. I do not forget that, when I suggested to him a few weeks ago that it was a hardship that holders of Indian securities in England should be charged with double income-tax, I received from him less satisfaction than I have had on many other questions, and I fear to touch on the subject again. But I agree with much that has fallen on this subject from the Hon'ble the Maharaja of Darbhanga, and would hope that during the next few years it will be found possible to remit this unpopular and unfair tax—unpopular, because it is entirely unsuited to the conditions of the country and of the people; and unfair, on account of the inequality of its incidence. The point I wish to press on Your Lordship's attention is a grievance of long duration. In these days of fierce competition, the prices of all commodities have very materially declined. Values of nearly all articles of consumption are very low, railway rates have been reduced, ocean freights are half of what they once were, letters are carried between Great Britain and India for a penny, and the profits of the merchant have very much decreased. Progress and competition are responsible to a great extent for these reductions. The one charge that remains constant and

has been so for nearly quarter of a century is the cost of Indo-European telegrams. The Cable Companies are the enemies of progress in this matter. They block the way, and I think it is a reproach to them that foreign telegrams should remain almost as expensive luxuries as Champagne and Havana cigars. The cost of telegraphing between Europe and India is Rs. 3 or 4*s.* per word. The charge is so exorbitant that, notwithstanding the increased trade now doing and the increase in the number of telegraphic negociations necessary to do that trade, traffic does not increase to any appreciable degree. The cause of this is not far to seek. In order to avoid being swamped altogether by telegraphic charges, the merchant at immense expense to himself has to go on improving his codes, which are becoming more nearly perfect and more ingenious every year, resulting in fewer words being used to express a great deal more than they formerly did. Private individuals, instead of telegraphing in ordinary words, have to take the trouble of preparing small private codes for the purpose of telegraphing to their friends abroad. Your Lordship will have observed how badly India is served by Press messages, how the high telegraph charges are strangling Press enterprise, with the result that this great Empire is most meagrely informed of what is going on in other countries of the world. Given a substantial reduction in the cost of telegrams, the necessity for perfecting codes will become less urgent and the traffic in mercantile cables will increase, private telegrams will become more frequent, and Press telegrams fuller and more intelligible. To induce an increase in the traffic a small reduction will be useless. The reduction in the first instance must be substantial, at least 50 per cent. This would make the cost of telegraphing Rs. 1-8 homewards and 2 shillings outwards per word. It is estimated that a reduction of 6*d.* per word would involve a loss of revenue to the Cable Companies of £50,000 per annum, and it follows that a reduction of 2*s.* would mean a loss of revenue of £200,000. The Cable Companies, not being sufficiently enterprising to lower the rate themselves, would no doubt be willing to make the reduction provided they were given a guarantee that they will not be losers thereby. The Bombay Chamber of Commerce have pointed out that the principle of State aid to communication between parts of the Empire has received definite sanction from the institution of an Imperial penny postage. In the interests of this Empire and of the merchants who have helped to build it, it is surely not unreasonable to expect the Home Government to join the Government of India in giving the necessary guarantee to the Cable Companies. But let us suppose that the Home Government refuse and that the full £200,000 may have to be paid away under the guarantee, the question arises, can the public reasonably ask the Government of India to undertake the guarantee?

I observe that the Hon'ble Member budgets for a net profit in the Telegraph Department of Rx. 2,71,200, which surplus at present goes to swell the general revenues of the country, and which would no doubt be reduced to some extent by a reduction in foreign telegram rates. The amount, however, is very nearly the amount of the guarantee required, and it can be very well argued that this net profit might for the present be set aside to carry out this much-needed reform. Again, a saving can be reckoned in the cost of foreign telegrams on Government account, which must be a heavy item, while the small balance required to make up the full guarantee might very well come out of the general revenues of the country, as I maintain that the traders of India, not only European but also Native, will benefit directly and indirectly from the introduction of cheap telegraphy. I do not think the most timid of men would suggest that a reduction in telegraph rates by 50 per cent. would not lead to a great increase in traffic, and it should be borne in mind that while there may be a little to pay in the first instance there is every probability that in a very few years the guarantee will become merely a paper guarantee.

"The Government have a precedent for giving such a guarantee in the action taken by the Australian colonies in 1891, when the Australian-English tariff was reduced from 9*s.* 4*d.* to 4*s.*, subsequently raised to 4*s.* 9*d.*, the Colonial Governments guaranteeing the Cable Companies against loss. It would be interesting to have a return showing the increase in traffic between Australia and England consequent upon the reduction in rates.

"Some of the Indian Chambers go so far as to advocate an all-British cable between Great Britain and India, with a charge of one shilling or even six pence per word; but such a proposal, though eminently desirable, would take time to accomplish, while the suggestion I advocate could be carried out by a stroke of the pen.

"I have to apologise to the Council for the length of my remarks on this subject, but my excuse is that I hold in my hand telegrams from every Chamber of Commerce in India pressing the Bengal Chamber to urge the importance of this question on the notice of Your Excellency. I have further to say that so far back as 1893 the Government of India declared that 'the reduction of the tariff to India is a measure of Imperial importance.' That was six years ago and nothing has since been done. The merchants of India now ask respectfully that this measure of Imperial importance be carried out, and I can assure Your Excellency that, in any action Your Excellency's Government may take to accomplish this desired reform, you will have the unanimous and ardent support of the entire mercantile community of India.

"My Lord, I take this opportunity of referring to the question of the insufficiency of rolling stock on Indian railways, not only in the interests of producers but also in the interests of the State. That the supply of rolling stock on Indian railways generally is wholly inadequate for the requirements of the rapidly increasing trade of the country admits of no discussion whatever. The coal trade of Bengal has suffered incalculable loss by the inadequacy of traffic facilities which has been the subject of constant representations from the Bengal Chamber of Commerce. It is not my intention to go into this point in detail, but I think it is sufficient to point out that the question should be made the subject of most searching enquiry, and an immediate remedy applied; otherwise the interests of individual producers, of the railways themselves, and of the country generally will be jeopardised.

"My Lord, I am not sure if it is permissible for a Member of Your Excellency's Council to make any remarks on the Exchange question, while the question is as it were *subjudice*; but I take it that the object of the publication of the Blue Book was to invite criticism, and I think, if I may be allowed to make a few remarks, they will be found to contain no impropriety. The announcement that the Hon'ble Member, departing from the usual custom of taking the average rate of the previous year, had taken the rupee at 1*s.* $3\frac{3}{4}$*d.* for the coming financial year had an unsettling effect on people's minds, and the result was a feeling of weakness in exchange. This, however, was caused very much by sentiment and has proved only temporary. There is no indication at the present time that the balance of indebtedness is going against India, and under the Barbour scheme the rupee cannot fail to creep up to gold point or nearly gold point, unless the balance of indebtedness goes permanently against India. While the Barbour scheme has been slowly but surely attaining the object which its author claimed that it would, the trade of India has been hampered by periods of excessive monetary stringency. The cause of this is to be found in the fact that, while the scheme provides for a maximum rate of exchange, there is no provision to ensure that the rupee will not decline to an indefinite point.

"All who are interested in fixity of sterling exchange will be pleased to see from the Financial Statement that the Secretary of State has not only succeeded in selling £3 millions more Council bills and transfers than anticipated in the Budget Estimate, but these bills and transfers have been placed at an exchange of 1*s* 4*d.*, the rate aimed at in the legislation of June, 1893. In addition to placing these Council bills, aggregating £19,000,000, the Government of India have succeeded in obtaining about £$1\frac{3}{4}$ millions of gold in exchange for rupees at a cor-

responding rate, and including that secured last year the gold in the Paper Currency Reserve must now amount to nearly £2,000,000 It is also satisfactory to observe that this improvement in exchange is attributable solely to a favourable balance of indebtedness, not to additional State borrowing in sterling, for, if I read the figures aright, the addition to India's sterling debt this year is £412,800 only (see paragraph 35). At the same time I would venture to point out that it would be a fatal mistake to think that the favourable balance of indebtedness now experienced is bound to continue and that the present prosperous condition of the export trade and curtailed import trade are factors on which to rely for fixity of exchange in the future. We are told in the Financial Statement (paragraph 11) that the rise in exchange in the early part of the year was due to unusually large exports of rice, wheat and seeds. The exports of wheat in particular were exceptionally large owing to exceptional circumstances: and by way of explanation of the present improvement in the balance of indebtedness I may say that it is only natural after a widespread famine and at a time of plague that exports should greatly exceed imports. Impoverished producers must sell produce before they can buy clothing and other imports, and at a time of plague the holders of both exports and imports are inclined to keep their stocks at a minimum. Hitherto the balance of indebtedness has been as a rule favourable to India, helped occasionally by heavy borrowing in sterling: but it is probable that this favourable balance has been maintained to some extent by the constant decline in sterling exchange: and it would be highly imprudent in attempting to fix exchange to rely for fixity upon this uncertain factor. If we are to have confidence in exchange, we must have in operation that influence which fixes exchange and adjusts the balance of indebtedness in all great commercial countries, *viz.*, immediate and permanent convertibility of the currency into gold, the international standard of value. I think it is now generally admitted that, in order to fix exchange and secure a gold standard, conversion need only be applied to that portion of the currency which can be spared for export, or rather to that portion that is tendered for remittance at the fixed minimum rate of exchange: and I hold that the figures I submitted to this Council last year prove that a Government with heavy sterling liabilities as compared with the extent of their currency will find it less expensive to undertake convertibility in this restricted form than to allow exchange to drop. If this be the case,—and I hold that it is,—it is to be hoped that the contemplated reform of the currency will include measures for ensuring immediate and permanent convertibility in some form or other: and, in order that these measures may inspire complete confidence not only here but in Europe, it is desirable that convertibility be guaranteed by the Home Govern-

ment. Confidence exerts a powerful influence both over exchange and demand for conversion, and the mere verbal guarantee of the British Government would be of great assistance to the Government of India. This guarantee might be given with perfect freedom from risk; because it has been proved that the Government of India will find it more profitable to undertake convertibility at 1*s.* 4*d.* than to allow sterling exchange to drop below that rate, so that all the Home Government are called on to do is to guarantee that India will adopt the course most profitable to her. It seems to me, then, that in the decision that will shortly have to be made the Government will have to choose between convertibility with profit and certainty on the one hand, and inconvertibility with loss and want of confidence on the other.

"My Lord, I have just one other remark to make. On the 12th February last in answer to a deputation Your Lordship stated that 'British capital is a *sine qua non* to the national advancement' and that it would be sound policy to attract such capital to the dependency. Further, Lord George Hamilton from his place in the House of Commons has repeatedly dwelt on the benefits that would accrue to India from an influx of British capital. If British capital is to be attracted to rupee investments, it seems to me the first step is to grant facilities so that investors can get shares transferred in England, and I would suggest that it is desirable to arrange that Indian companies with rupee capital should be able to have share registers in England, in much the same way as sterling companies, such as the Exchange Banks under the English Companies Act, have what I believe are called Colonial registers, to enable transfers in their shares to be effected in India."

The Hon'ble MR. GANGADHAR RAO MADHAV CHITNAVIS said:—"My Lord, I desire to make a few brief observations on the Budget which was submitted for our consideration last week. In the first place I am glad to be able to offer my felicitations to Your Excellency's Government and the Hon'ble the Finance Member for the very hopeful and encouraging report he has put before us. The year under review must, in comparison with its immediate predecessors, be said to have been a propitious one. Yet I am not quite sure that it has brought us anything of positive good. But, situated as we are, a diminution of evil is itself no small mercy. The Hon'ble the Finance Member has very clearly shown that the surplus of the current and coming years will have more than covered the aggregate deficit of the two famine years 1896-97 and 1897-98, that is to say, over seven crores of rupees. Yet the Government do not see their way to reduce taxation. It is not for me to challenge the wisdom of this policy, but in view of the facts that prospects are what they are represented to

be and the coffers of the State are being replenished every day, small taxes like the pandhri-tax in the Central Provinces might be done away with altogether without any sensible diminution of revenue. I submit this only as a humble suggestion, because I know that this pandhri-tax is felt by the people of my province as an inequitable and oppressive one, owing to the facts that no such tax exists in any other part of the country, and that the income assessable to the said tax is as low as R250 per annum. I have recently had occasion to draw Your Excellency's attention to high assessments in certain parts of my province, where malguzars are required to contribute as much as 70 or 75 per cent., sometimes so much as 80 or 85, of their receipts towards revenue and cesses. My Lord, these high cesses are pressing heavily upon malguzars in my province, and Your Excellency will have earned their lasting gratitude if, under Your Lordship's order after consultation with the Chief Commissioner, the cesses, together with revenue, were fixed by law at 60 per cent. of the collections, or, in other words, the Government revenue were limited to 50 per cent. of the collections, as it is in the North-West Provinces.

" My Lord, it is evident from a mere cursory glance at the Budget that the Central Provinces have been very slow to recover from the depression of the famine. Under the circumstances we cannot but feel grateful to Your Excellency's Government for the proposal of making a grant of five lakhs of rupees to the province from Imperial Revenue. I am aware, my Lord, that Imperial finances have of late years been subjected to great stress. Yet I think that, in view of the extreme calamity in the province, the grant might have been somewhat larger. It would not be out of place here if I draw Your Excellency's attention to the fact that there has been a recurrence of famine in some districts of the Jubbulpur Division, and the rabi crops, in other districts, have more or less failed. I trust Your Excellency's Government has already been informed of the fact by the Chief Commissioner of the province, and that due provision will be made to combat the evil. I earnestly hope that in this emergency the Imperial Government will, to the best of its power, help the Provincial Government to meet their administrative necessities. This claim of my province, I may add, does not arise from the very small balance it now possesses, but from special misfortunes pressing on it.

" The Hon'ble the Finance Minister has referred to the increase in the unit of weight for inland postage from one tola to one and half tola, and I congratulate the Government upon the reform. At the same time I beg to invite the attention of the Government to the necessity that there is for further reform in this direction. The masses would benefit far more greatly if the maximum weight for half anna

postage were raised to one tola. When heavy letters can be sent all over the world for an anna postage, it is only reasonable that the maximum of weight for half an anna postage should be raised within the country in the near future when Government finds it convenient. The reform might prove prejudicial to the postal revenue for a time, but it is sure to bring in larger incomes in future than the Government derives at present from the Postal Department.

"I also beg leave to point out that the reduction of the rates of fees for inland telegrams has been delayed a considerable time. Sir James Mackay moved the Government of Lord Lansdowne so long ago as 1892 for the reform, but the Government was far too embarrassed at the time to attempt it. In view of the prosperous times upon which we have entered this subject will, I hope, receive early consideration.

"I note, my Lord, that the Government has been stocking large quantities of gold during the whole of the official year about to close. The imports of the metal on Government account have been valued at Rx. 2,616,400. I also note that, of the two reasons which have induced the Government to hold the large surplus budgeted as a reserve, 'the second and weighter reason is that the Government have in contemplation, as is well known, certain extremely important measures of currency reform.' I conclude from these two facts that the Government intends to launch out upon some such expensive schemes of currency reform as the introduction of a gold standard or a gold currency. I feel it my bounden duty to inform Your Excellency's Government that the people of this country are likely to look with diffidence upon any such introduction of a gold currency, especially at a heavy initial outlay. Further, a gold currency is, in the opinion of many, unsuited to the economic conditions of a poor country like India, where the traditional cowrie still plays an important part in the commercial transactions of the people.

"I find, my Lord, that the Secretary of State suffered considerable loss upon the 2½ per cent. Government loan of £6,000,000, the loan having been taken up at a heavy discount. This was indeed a heavy loss to incur, and in contemplating it I cannot ignore the fact that the results would probably have been otherwise and advantageous if the loan had the high recommendation of being guaranteed by the Home Government. India sterling stocks are first class stocks and would be eagerly sought for by British investors if they had the British guarantee. The Chinese loan has been raised on far more advantageous terms, and that because it was guaranteed by the British Government. My Lord, I do not see why we, the people of this country, which

forms an integral part of the British Empire, should incur any loss upon our sterling loans, while countries with which Britain has only a diplomatic or commercial relation can raise money in London on the easiest possible terms. To my mind the only difference in the two cases is that, while our loans are not guaranteed by the British Government, loans of alien countries, like China, are. My Lord, this difference in the treatment might well strike an impartial observer.

"The next subject of importance I have to refer to is the Army charges. I observe with sincere pleasure that on the expenditure side there have been considerable savings. The result no doubt would have been still more satisfactory for India could the Government see its way, after due consideration, to still further reduce Army expenditure. I think some at least of the Hon'ble Members present here will agree with me when I say that the Army expenditure in India is a heavy drain on its finance, and is generally the principal item which upsets the Budget equilibrium. I therefore think that some considerable reduction is necessary in the military expenditure. It has been suggested that one way of bringing about this result would be to reduce the number of British soldiers in India. During the time of the East India Company one British soldier landed in India used to cost India £27. Now, with greater facilities of travelling, etc., he costs, if I mistake not, as much as four native soldiers of the same rank. It would thus be a great relief to our Exchequer if native soldiers could be largely employed in our army. It was the Indian troops of the East India Company who won the British Empire in the East, and I see no reason why, if we are to pursue a policy of confidence and trust, they, of course with British officers and a smaller number of European soldiers to guide them, should not be able to defend it against all attacks of the enemy. In this connection I beg to invite the attention of the Government to the observations made by the Hon'ble the Finance Member in paragraph 74 of the Budget:

'In respect of their military charges the Government of India feel the same necessity which presses upon all other military Powers, and which has imposed upon even the most pacific nations increased burdens. Both our military system in its details and our general military and defensive policy are closely linked with those of England; and we cannot escape the necessity of increasing our defensive expenditure in the same way, though not perhaps to the same extent, that England does.'

"Such being the case, my Lord, justice requires that a portion of the expenditure should be borne by England. If Imperial policy demands the extension of defensive works, the expenditure should be met out of the British revenues, and not the Indian, specially when rich Britain can so much more easily bear the burden than poor India.

"The raising of the assessable limit as regards income-tax, and the reduction of the salt-tax, have been so often brought to the notice of the Government that I will not say anything with regard to them. This much I will say, that if at some future time Government sees it convenient to grant this concession, it would give relief to many poor people.

"My Lord, I have nothing more to add to the able Statement made by the Hon'ble the Finance Member, which I think has been received with satisfaction by all who have heard it. I cannot, however, conclude these remarks without availing myself of the opportunity to express my sincere regret at the approaching departure of the Hon'ble Sir James Westland, who during the many years he has been connected with the Government of India, has not only manfully done his duties towards the Government, but has been a courteous and sincere friend to all Native and European gentlemen who have had the good fortune to meet him in this Council Hall."

The Hon'ble PANDIT SURAJ KAUL said:—"My Lord, the Budget under consideration prepared by the Hon'ble Sir James Westland, whose financial experience is well-known all over India, is, I venture to say, extremely satisfactory. It is gratifying to notice that instead of a deficit the Budget shows a considerable surplus. The Government is to be congratulated upon this result, and if unforeseen calamities, which are beyond human control, do not occur in any part of the country, the Government of India will be under no necessity of borrowing money. Indeed, there will be a large saving. In my remarks on the Budget laid before the Council last year I expressed a hope that there would be decreased expenditure under the heads of war and famine, and it is matter for rejoicing that by the effective measures and policy adopted by the Government both the calamities of frontier war and famine have been averted, resulting in a considerable saving in the expenditure provided for under these heads in the Budget.

"My Lord, I wish to take this opportunity of bringing to Your Excellency's notice the necessity of encouraging and furthering the cultivation of waste-lands in this country, in times of peace and prosperity. During the last Simla season Sir James Lyall, then President of the Famine Commission, asked me what methods would be effective in averting famine, and I stated in reply that the most effective method was the improvement of the means of irrigation. My Lord, it has been proved by the experience gained during the past famine

that scarcity was not at all a feature of the tracts irrigated by canals. Indeed, the grain produced went a good way towards supplying the needs of the famine-stricken districts. In the Punjab, the construction of the Chenab Canal has done an immense amount of good. Extensive waste areas and lands where it was impossible even to grow grass are now, owing to canal irrigation, as fertile as any other land in the Province; cattle-thieves who had their abode in what was before a vast forest and were safe inside it have completely lost their rendezvous. It is hoped that the Jhelum Canal, which is about to be constructed, will prove similarly useful, and that when, later on, Government is able to devote its attention to the excavation of the Indus Canal, it will be possible to hold up the Punjab as an example in the matter of the development of sources of irrigation. My Lord, the outlay required on these works is no doubt very large, but it may confidently be expected that they will repay the original outlay, with interest, in the course of a few years. At the same time the extensive tracts of waste-land which are now lying unproductive will be brought under cultivation, and cultivators who have to move from place to place for want of land and are either by habit or in consequence of poverty induced to commit theft and similar crimes will settle down peacefully on getting canal-irrigated land to cultivate. And, above all, the abundant produce of canal-irrigated land will provide what is necessary both for consumption within India and for export to foreign countries.

"My Lord, I also consider it my duty to observe that the provision made in the Budget for expenses connected with the prevention, etc., of plague is necessary and prudent. This terrible epidemic has been the cause of deep anxiety to the Government and sore trouble to the people, but the excellent measures adopted by the Government in places where the scourge has prevailed and for preventing its taking hold of other parts of the country have been of much benefit. The excellent arrangements made by the Punjab Government in the plague-stricken villages of the Jullundur and the Hoshiarpur Districts have been very successful. People are now beginning to understand that the rules framed by Government are intended for the benefit of the people themselves and that the disease spreads by contagion. They are beginning to realize the wisdom of segregation of the plague-stricken individuals and of people who might possibly have caught the contagion. The order of Government that no patient shall be compelled to take medicine in the plague-hospital, that the relatives and friends of a patient can be permitted to look after him, and that if he dies they shall not be obstructed in the performance of the after-death ceremonies, has greatly relieved the minds of the people, and they are now becoming alive to their duty in carrying out the orders of Government and assisting it in its efforts. Hindus and Muhammadans, who according to their respective religions regard the ruler of the time as a representative of God,

are thus in a better position now to fulfil the noble desires of their ruler It may be thought that the measures adopted in places like Jullundur and Hoshiarpur may not prove so effective in large towns of the Punjab without the hearty co-operation of the people; but there is now, I think, no reason to fear that in the case of a visitation in any large towns—which God forbid—the assistance of the people may not be fully relied on."

The Hon'ble Mr. LATOUCHE said.—"I do not propose to add anything to the general remarks on the Financial Statement which have been made by the Hon'ble Members who have already spoken, especially by my Hon'ble friend Nawab Faiyaz Ali Khan, my colleague in the representation of the North-Western Provinces. Nor in my opinion is the time opportune for any effective discussion of principles of taxation. Your Excellency's Government has decided to keep the existing realized surplus in reserve, and not at present to undertake any measures for the reduction or re-adjustment of taxation.

"But as the question of the income-tax has been raised, I shall say this much, that while I cannot agree with the Hon'ble Mr. Arthur that the income-tax should be abolished, I yet would gladly see the lower limit of liability to the tax raised above Rs. 500, its present limit. I would gladly see the lowest grades of Rs. 10 and Rs. 15 removed from the schedule, and that not only on the grounds urged by the Hon'ble the Maharaja of Darbhanga, but also on official grounds. In these grades the tax is collected from a number of petty traders who as a rule keep no regular accounts, whose income is extremely difficult—almost impossible—to ascertain, regarding whom an assessing officer is hardly ever able to satisfy himself as to the justice and fairness of his assessment.

"There is only one other matter on which I desire to say a few words. It is the question of the future financial position of the Government of the North-Western Provinces and Oudh, and I refer particularly to paragraph 52 of the Financial Statement, where the Hon'ble the Finance Member says:

'In the coming year, 1899-1900, the Government of the North-Western Provinces propose to increase their scale of expenditure all round to a rate which they will not be able to maintain after the arrear collections (which add some lakhs to the present scale of revenue) are exhausted, and the revenue falls back to its ordinary amount.'

"I trust this does not mean that the scale of expenditure adopted in 1892 is now considered suitable and sufficient for the needs of the Provinces.

"It can be satisfactorily proved that the provision for the public services made in past contracts was inadequate; that the Provinces have suffered from

an unduly restricted expenditure; and that in future, apart from the question of any temporary increase, a permanent increase in the scale of expenditure is necessary and essential to the welfare of the Provinces."

The Hon'ble SIR GRIFFITH EVANS said:—"My Lord, India may well be called a land of surprises: it has been visited with war, pestilence and famine all at once, but the marvellous recuperative power of the country when the harvest is good is well illustrated by the revised estimates for the present year The estimated surplus, Rx. 890,000, which was thought by many to be too sanguine, has been converted into one of nearly Rx. 5,000,000, reduced to Rx. 4,000,000 by fresh grants to the Provincial Governments.

"Of this large surplus only Rx 1,000,000 is due to the improvement in exchange. The rest is due to increased revenue, although the plague is still with us. For the coming year a surplus of nearly Rx. 4,000,000 is estimated, and if the exchange keeps at its present level it should be Rx. 400,000 more. The first tendency of everyone on seeing these figures would be to ask for remission of taxation, which is no doubt very heavy, and some of it very harassing. The Government has, however, resolved not to take this course, having regard to the deficit of Rx. 7,000,000 in the last two years, and the probability of being put to extra expense in connection with any scheme that may be decided on for fixing the currency. The estimated surplus for the coming year of nearly Rx. 4,000,000, together with the surplus drawn by the Secretary of State beyond his requirements for the year, amounting to one million sterling, and Rx. 392,000 from the cash balances, goes to supply the sum of Rx. 6,000,000 to be spent for railway construction on capital account, thus rendering a loan unnecessary for the present year.

"There is much to be said for this course as a temporary measure—not only on the grounds stated in the Financial Statement, but because there are elements of uncertainty about the expected surplus of next year. The plague is still here, and is threatening Calcutta and its trade. No one can guarantee peace on the frontier, though we may reasonably hope for it. Opium, too, is uncertain, though I am glad to see that the reduction of duty on Malwa opium has had the effect of increasing the production, and giving India a chance of maintaining its hold on the China market, which it was fast losing. Besides all this, I think it is but fair that Your Excellency should have time to consider the needs of the country, and consider the various claims that will be put forward for the remission of taxation on the one hand, and for increased expenditure on the other.

"A recently fractured rib forbids me making any long 'excursus' into that very wide field; but there are one or two observations I would wish to make.

"The salaries and furloughs of the Judges of the High Court and the Presidency Small Cause Court will have to be considered.

"The claims of Bengal to have the surplus income derived from the administration of civil justice in Bengal applied to much-needed improvements in the machinery of justice in the province will have to be considered. The Hon'ble the Maharaja of Darbhanga has dealt with this matter to a considerable extent. In the last Budget debate there will be found a passage-at-arms between the Hon'ble Sir Henry Prinsep and the Hon'ble Financial Member in which the latter had the last word. I regret that for the physical reason I have mentioned I am not able to go at length into this matter. But I am satisfied that the Judges of the High Court are right in saying that the Subordinate Judges and Munsifs are over-worked and underpaid, and that my Hon'ble friend is wrong in his denial of the fact. Again, the condition of the lower ministerial establishment is a scandal. They will continue to supplement their inadequate pay by illicit perquisites unless some change is made. The principle should be that enunciated by Warren Hastings when propounding his scheme for Civil Courts in Benares:

'I have endeavoured to proportion the salaries of the officers to their responsibilities, and have thus removed the necessity for, and I trust the temptation to, corruption.'

"As to the Hon'ble Financial Member's remarks in that debate, that cases which last months are proofs of the incapacity of the Judges who try them, the answer is plain. There is a class of cases, long cases, common in India, which have no parallel in England, except in very rare instances, such as the Tichborne case. They cannot be made into short cases except by a denial of justice. If my Hon'ble friend could only be placed on special duty to try one of these cases, he would need no argument to convince him of his error.

"In the note of the Hon'ble Member for the Military Department there is mention of the Cantonment Bill. I wish to draw the attention of the Government to a memorandum by the Judges of the Calcutta High Court upon that Bill. It is there pointed out that in the older cantonments legal rights have grown up which have been judicially recognised by the Courts and that those rights will be virtually confiscated by the Bill without compensation. This cannot be allowed according to English principles of justice. Some provision will have to be made by which persons claiming such rights should be able to prove them (if they can) before a judicial tribunal. When so proved the State can only acquire them on terms of giving compensation.

"I am glad to see that steps are being taken for the improvement of transport although it will cause some expense; that an army is no use without adequate transport is as apparent to a civilian as to a soldier. I shall never forget the way money was uselessly squandered in the attempt to improvise transport at the time of the Penjdeh scare. Great as has been the improvement since that time, the Tirah expedition showed there was much to be done.

"There is another matter connected with the Army on which I am sorry to see nothing is said. It is the inadequate number of European officers attached to each native regiment. I have drawn attention to this in former years, and in doing so have, I believe, expressed the views of Lord Roberts and most of the many friends I have had in the Indian army. I will not go into the details now, but will only say that the soundness of these views and the necessity for a change were amply demonstrated in the recent expedition. I hope the military authorities will not wait till a great war exhibits our splendid native army paralysed for want of British officers whom they know and trust to lead them.

"One word more. Very recently, in the debate on the Court-fees Act, I explained the injustice which the Native Christians suffer under in the matter of administration and death duties and I pointed out a simple and easy remedy. I got something very like a point blank refusal from the Hon'ble Financial Member on that occasion. But I return to the charge. It will cost very little, probably not a lakh of rupees, to relieve them. I do not ask for any pledges. In small matters he is very stony-hearted. He reminds me of the character of Naaman the Syrian, as drawn by his servant—'Had the prophet bidden thee do some great thing would'st thou not have done it?' In any great emergency of war or famine he is cheerfully ready with his millions. But if you ask him in his financial capacity for sixpence, you will find it is very difficult to get it. Besides, he is leaving India. No one regrets his loss more than I do—as a friend as well as a financier. But I must place this modest claim upon the surplus on record in plain and brief terms.

"If a native becomes a Christian, his widow and children are, on his death (to use the quaint but expressive words of the old ecclesiastical canons), 'much distracted and diversely called and summoned to take administrations, and are thereby grieved with many causeless and unnecessary troubles, molestations, and expenses;' and besides, they are afflicted with a two per cent. duty on the whole estate.

"All these troubles for those he loves this native might have avoided by resisting the allurements of Christianity during his life, or by relapsing into what is called 'heathenism' before his death.

"I cannot doubt that this grievance will be redressed, for I have no reason to doubt the fairness and justice of the Government of India, or to suspect any of its members of any especially Pagan or anti-Christian proclivities. Nor do I anticipate that the Secretary of State for India will say from his place in Parliament 'The way of Muhammad is open, the way of Buddha is open, and the way of the ancient Rishis; but I will maintain a special duty on the lands and goods of those who seek the way of Christ' What makes me so insistent is the fear that so small a matter may be overlooked amidst the larger concerns of this great Empire

"To the Financier I would address one more observation on this point. Though sugar may be financially more important, Christianity is still regarded by the majority of Englishmen as having at least an equally good claim with sugar to be protected from unfair competition Wherefore my counsel to the Financial Department is not to further harden their hearts but to let this people go."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said —"Despite the very flattering terms in which my Hon'ble friend Mr Rees has foretold and almost invited me to launch into a criticism of the Budget before us, a multiplicity of reasons make it inexpedient that any adverse criticism should find expression at the present juncture. To begin with, this is Your Lordship's first year of office; and it is only fair that Your Lordship should command a wider and more intimate knowledge of the many problems which you are confronted with. It is indeed true that you are not a perfect stranger to the affairs of this country. Both by choice as a traveller and by office as an Under Secretary, Your Lordship had indeed made a vast amount of acquaintance with interests involved in the stewardship of this part of the British Empire. But it is no disparagement to say—and I say it in all humility and in all diffidence—that the extent of knowledge acquired as an outsider to actual responsibility or as the advocate holding a defence-brief on behalf of a past Government of India is not quite equal—in essence and degree—to what is necessary to enter upon a confident solution of the problems connected with the abiding interests of this country. That Your Lordship is already on the right track, and that you have displayed and declared your firm resolve to identify yourself with the interests of this country in preference to all other extraneous considerations, is proved to the public by your bold

deviation from the policy of the past, as instanced by the Sugar Duties Act, which you have placed on record just the other day—a deviation of policy for which I am amply authorised to assure Your Lordship of the deep gratitude of my countrymen—a deviation, too, which to me, at the second sitting of this Council before I leave it, was of peculiar pleasure as in some way contrasting favourably with a tariff legislation which was brought in at the second sitting of this Council from the commencement of my taking my seat on it, and which I never shall cease to regard as free trade run mad.

"Having regard to the significance in the fact that you were called upon to defend the late Frontier war just before your acceptance of the Viceroyalty of India, when perhaps you yourself had not dreamt of taking up that office, the impression is irresistible—at least on my mind—that in taking up the reins of the Government of India your foremost idea was to solve, on the firm basis of permanence of peace, our trans-Himalayan problem. I regard this as having been uppermost in your thoughts these three brief months that have now elapsed between your arrival here and your forthcoming departure to almost the next door of the scene, with reference to which that particular problem has to be set at rest. In common with nearly all my countrymen who are capable of thought, I hold that our Frontier is the greediest cormorant of the Indian revenues. It is therefore meet that my first set of remarks should relate to this topic and should be addressed to Your Lordship at the earliest available opportunity, and—let me add—on the eve of your proceeding to enter upon the task in right earnest. If you will succeed in enchaining that fell monster, or at least making him permanently dyspeptic towards Indian blood or towards blood paid by Indian money, you will have achieved a work for which you will be eternally blessed. Besides resoluteness, Your Lordship must perhaps advise that some new order of honours might be forthwith instituted, open for competition for our military men alone, but capable of being won, not by martial victors but by heroes of peace, not for successfully conducting, but for effectually preventing, wars and battles on our Himalayan frontier. I fervently hope that, should it come to pass that I shall be Your Lordship's humble colleague this time next year, I might have it in my power to acknowledge your success in this respect and to convey to you my country's lasting sense of signal service done.

"A second consideration which disarms criticism is the delay in the publication of the reports of the Welby Commission and the Currency Commission. Some measure of relief is looked for from the former, if its conclusions should be of a nature to meet cherished expectations. As for the latter, it is generally regarded, not without just cause, as a veritable

Pandora's box, and few can tell—when our astute financier himself professes not to—whether there is to be any hope at bottom and whether it would be one which would have any good shape and bulk. In the face of these discouragements, it will be hard lines to nourish other than the kindliest sentiments towards Sir James, of whose services this is his last year of office, but his year of overflowing surpluses, and the one, too, which has come after a year of his untiring effort to hold out an unstinting hand to our famished millions at a time when our exchequer seemed to afford but little scope. While these circumstances must awaken an unruffled goodwill, may they likewise sooth those feelings of irritation which he had often caused by both the manner and matter of his utterances. One ground, however, which tells the strongest in favour of Sir James Westland has yet to be mentioned. It is his recognition of the general indigence of the people of this country—perhaps for the first time in his official career, certainly the first time in my—not very retentive—memory. Fully conscious—let me add, painfully conscious too—that in noting the return of prosperous seasons on the very heels of a dire and widespread famine, he was but judging by the standard of paid up Government revenue, Sir James has placed on record, in black and white and in no faltering or uncertain tones, the important lesson, namely, that 'the margin between prosperity and adversity in India must be a very narrow one; for, if we have learned that one bountiful harvest suffices to restore the country after a widespread and severe famine, we have learned also that the failure of the seasonal rains in a single month of the year is sufficient to set back a full tide of prosperity; and that this is a possibility which, in the administration of India, and in its financial administration especially, we dare not leave out of account.' Though honestly meant to be an explicit statement, this extract has about it what may be called a diplomatic leaven. It therefore requires to be annotated here and there. When in the face of a flush of revenues Sir James speaks of the margin between prosperity and adversity in India to be a narrow one, it is quite clear that what is left in the pockets of the tax-payer, after he has paid his taxes, is not enough to feed him—much less to float him in a succeeding year of failure of monsoons. When, with the above admission, he talks of a bountiful harvest as sufficing to restore the country, he can mean little more than this, that so far as the Government dues are concerned, they could be fully extracted. I would lastly substitute for his word 'possibility' the words 'extreme probability.' Thus elucidated it is indeed a profound lesson, full of grave import, and it is well that it has been placed before Your Lordship so early and so impressively in the forefront. There can be no doubt that the problem suggested by this state of things will be the first cis-Himalayan problem which Your Lordship will attack, with the eminent talent and the active earnestness which distinguish you.

"As for the remission of taxation, few can deny the wisdom of the reservation stated in the Budget. While the grounds assigned are sound enough in the immediate juncture, one cannot but regret that the admitted onerousness of the salt-tax on the bulk of the people has to continue without some measure of relief. I sincerely wish that it may not be long before it is within Your Lordship's power to afford this already plighted but long delayed relief, which, I feel sure, will be gratefully remembered at every meal which the middle and the poorer classes in this country take.

"The income-tax is, again, one in which help is needed. But that help should take the shape of raising, by a good deal, the minimum for taxation. There are two reasons why I regard this species of succour urgent. In the first place, the tax now touches incomes far too low to afford the payment; for, as it has been neatly put, 'it makes indeed little difference to the life of a family whether its yearly income is £1,000 or £5,000. But it makes a very great difference whether the income is £30 or £150; for with £150 a family has, with £30 it has not, the material conditions of a complete life.' The words 'the material conditions of a complete life' in the above passage have, *mutatis mutandis*, an important bearing on the altered modes of life, almost forced *even* on the simple raiyat who —to deserve to be noticed—could once appear, but no longer can, in his semi-paradisiacal dress, in suing for remission, asking for takkavi or craving for water.

"My second reason for raising the taxable minimum is the preposterous system on which the tax is assessed. The well-to-do and those that have adopted or have found occasion to adopt the modern system of regular book-keeping are all safe, and they are men who, in the language of my Hon'ble friend Sir Griffith Evans, are strong enough and loud enough in their voice to compel relief if they have any complaint. But the classes of men and merchants I allude to are either such as adhere to their old ways of keeping accounts, or such as find no need to keep any, except to help their memory, being the masters of their incomes and accountable to none. The way these now suffer is easily told. That honourable body of men who go by the name of secret informers, furnish the assessing officers with some information to go upon in the first instance. The assessee produces his loose sheets of account and swears to the items in them and to their accuracy. These are too often discredited as unsatisfactory, and no clue is given to the assessee of what data the informer, by some occult methods, has supplied. No onus of proof is laid upon him or is accepted by the assessing officer as regards such data, and they are acted upon as if they were gospel truths. The amount and extent of hardship and injustice

which this system is calculated to inflict can well be imagined, and they are entitled to be taken into account in deciding the question as to how far and to what extent each source of income may be pronounced to be on a solid and not on a shifting basis.

"I have considered these remarks as relevant, as we have met to-day, not in our legislative capacity, but, as I take it, in order to express our views, so far as they bear on the financial aspects of the Administration. If I have erred in acting upon that faith, I beg most humbly to apologise."

The Hon'ble MR. RIVAZ said :—"My Lord, I will confine my remarks, which shall be of the briefest, to one or two points connected with the departments under my charge, which have been noticed by some of the Hon'ble Members to-day. The Maharaja of Darbhanga referred to certain proposals which have been submitted by the Chief Commissioner of Assam for the colonization of the vast tracts of waste-land in that Province. The correspondence which has taken place with the Chief Commissioner of Assam has been published for general information. That correspondence shows that, although the Government of India have not been in complete accord with Mr. Cotton's proposals, they have agreed to consider any scheme that he may submit on the general lines which he advocated for the colonization by capitalists of a considerable tract—I think, speaking from memory, of 100,000 acres. While the Government of India expressed their willingness to accept the Chief Commissioner's rates of assessment, which were exceedingly favourable, they demurred at the length of the term of lease which he had proposed, and they thought that clearance conditions ought to be attached in giving such leases. However, we shall be quite prepared to consider any representation which the Chief Commissioner in answering our letter may make on these points.

"The Hon'ble Mr. Rees touched on the question of prospecting concessions and mining leases. These questions, of course, are quite different from the subject-matter of the Mining Bill which I introduced into this Council last week, and which deals with quite another matter—the matter of regulation of labour in mines. However, the revision of the present rules which apply to prospecting concessions and mining licenses is at present under the consideration of the Government of India. I hope that the revised rules will shortly be published, and that they will be in the direction of extending the present powers of Local Governments in dealing with these matters.

"My Hon'ble friend Mr. Mehta made some remark about the surplus of the present year having been swelled by realizations of suspended land-revenue,

and he criticised chiefly the land-revenue system of Bombay. I will not venture to make any remark as to whether the land-revenue system of Bombay may or may not be too rigid, as I am not personally acquainted with the Province. The Bombay Government will, no doubt, when it has the opportunity and if it is necessary, defend its own system. I will only remind my Hon'ble friend that if land-revenue is suspended in years of adversity it is only natural and reasonable that it should be collected in favourable years, and that in several Provinces large amounts of land-revenue have been altogether remitted in addition to what was suspended.

"The only other point which I need refer to is as to the remarks of the Hon'ble Sir Griffith Evans about the exemption of Native Christians from payment of probate-duty. When we lately dealt with the amendment of the Court-fees Act, I, as being in charge of that Bill, said that we had expressly excluded this question from consideration, as we were then only dealing with the amendment of the procedure for the recovery of duties, but as regards the general question we could not take it up then. If, however, it is represented to the Government of India—for instance by the Madras Government, which I believe is the Government chiefly interested in the Native Christians—it will, I am sure, receive the fullest consideration What may be the decision I am unable to say, but I can only say that it will receive the very fullest consideration."

The Hon'ble SIR ARTHUR TREVOR said :—"My Hon'ble friend the Maharaja of Darbhanga has lodged a somewhat sweeping indictment against the management of railways in India, and complains generally of overcrowding, unpunctuality, want of latrine accommodation in third-class carriages, want of separate accommodation for all classes of Europeans and Natives, insufficient number of trains, slow speed, third-class fares which, if not high as compared with other countries, are too high for the poorest classes in this country, and so on. I gather that he is disposed to attribute these defects in part to State management and control, and to make an exception, in some respects at any rate, in favour of the Bengal and North-Western line, which is our standing example of successful private enterprise. I find in this exception some encouragement. It is only very recently that we were vehemently called upon to enquire into a serious indictment brought by the local authorities against the Bengal and North-Western line, as compared with other lines in India resting on very similar grounds. The conclusion we arrived at was that things were not so very bad on that line after all, and I am glad to have the testimony of my Hon'ble friend in support of that conclusion I am

inclined to think that a similar enquiry into the working of other lines would justify a similar conclusion. We all, I am sure, must heartily sympathise in his desire for improvement. But it is impossible to do everything at once regardless of expense, and some of the matters he has referred to are, I am afraid, beyond the range of practical politics. There are obvious objections, for instance, to the provision of latrine accommodation in all third-class carriages. We are providing it in the carriages reserved for females, and we are doing what we can to make increased provision at stations. There are also, I think, obvious objections to the provision of separate accommodation for different castes and classes. It would at any rate be a reversal of the policy which has hitherto been adopted. For the rest, I think that unpunctuality (considering the long distances run) and overcrowding are the exceptions, not the rule. That they should take place occasionally (even on the best managed lines) is inevitable. I have even known such things in England! We are doing our best to lessen the number of such cases in India, and to improve the signalling arrangements to remedy unpunctuality. We are steadily improving the carriages. It is quite possible that it might pay to reduce third-class fares. But the point is one which I think must be left to the Management of individual lines. It does not follow that because it would pay in one locality or on one line, that it would answer generally. The Madras line is now trying the experiment, as my Hon'ble friend has observed. The third-class fares were reduced some 18 months ago from 3 to 2½ pies, but though the number of passengers has increased, the loss of revenue has not yet been recovered, and as long as trains are filled, and as many trains as possible are run, a reduction in fares must result in a loss of revenue which a commercially managed undertaking cannot be expected to accept with a light heart. Railways do not pay their cost on the direct account, and we must necessarily proceed with caution. With regard to the remarks which he has made as to the insufficiency of the East Indian Railway to cope with the traffic of Calcutta, I may observe that here again everything cannot be done at once. We are only allowed to spend a certain annual sum, and with the assistance of the Conference we do our best to apportion the amount as fairly and with as much consideration of the most pressing needs as possible, and I welcome the evidence given by the Hon'ble Mr. Rees and the Hon'ble Nawab Faiyaz Ali Khan that so far at least as the provinces they represent are affected our apportionment is regarded as fairly satisfactory. The complaints against the East Indian Railway are due mainly, I think, to the cause to which my Hon'ble friend Mr. Allan Arthur has also referred, namely, the want of sufficient rolling stock. With reference to that point I may mention that both the Management of the line and Government are fully alive to the

deficiency. About 1,120 open and 1,800 covered wagons are now under supply, and they would have probably been here some time ago but for difficulties in getting orders placed and executed with sufficient rapidity. Apart from this, we are making progress towards the attainment of the desired independent line to Calcutta. A line from Jerriah *viâ* Midnapur to Calcutta forming part of the Bengal-Nagpur Railway has been approved by the Government of India. When this and the line from Mogulsarai to Daltonganj now under construction have been completed, there will be but a short link to be filled in, and provision has already been made for the exercise by the Oudh and Rohilkhand and Bengal-Nagpur Railways of running power over any section of this line which may belong to the East Indian Railway. Meantime the approaching completion of the Bengal-Nagpur Railway connection with Calcutta *viâ* Midnapur will help to relieve the congestion between Asansol and Howrah, and other schemes for still further relieving it are under reconnaissance and survey."

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN said:—"My Lord, before I deal with the army estimates I should wish, with Your Excellency's permission, to pay a tribute to the memory of a distinguished officer who sat with us in this Council this time last year. I know that my colleagues join with me in deeply deploring the untimely death of General Sir Charles Nairne just as he was selected to fill a responsible office in England.

"In the memorandum which I laid upon the table last Monday I have given the details of the estimates with which I am specially concerned. The chief point to be noticed is that, taking the four estimates for next year together—the Indian military estimates, the Home India military estimates, the Military Works and the Marine estimates—and translating the rupee into sterling at an exchange of 1*s.* 4*d.*, they show a saving of £644,000.

"We have postponed certain expenditure that we did not consider very pressing, and in the course of the year have had to reject or postpone a good many proposals involving expenditure after a careful consideration of their merits. To take one example out of many, we felt obliged to postpone a proposal to have two additional companies of garrison artillery in India. On the other hand, we have added a mountain battery to the Indian establishment. We have provided in next year's estimates for improvements in the arrangements for the mobilisation of the field army and the defences of the North-West Frontier; we have provided for an increase in the reserve of the Native Army, for larger expenditure on camps of exercise, and for increased capitation to artillery volunteers. We provided in this year's estimate for an increased capita-

tion to mounted volunteers. We also propose to increase the wound pensions of the Native Army. In the Medical Departm ent we have provided for bettering the position of Assistant Surgeons, aud have also dealt with the question of improving the condition of the Native hos pital assistants. We have taken up the question of field medica l equipment and ambulance transport. Improved army equipments have been provided for and an increase in ordnance manufactures in India. It may interest my Hon'ble colleague s to know that in 1897-98 the saving in ordnance manufacture alone, as compared with the cost of imported manufactures, was 30 lakhs of rupees or £200,000 at 1*s.* 4*d*

"We are prepared to spend more money on the sanitary requirements of the army. We cannot, of course, provide for everything in the estimates of one year; you will see from the memorandum how enormously the demands exceed the possibility of complying with them all, but besides the actual works of water-supply, drainage, and the like, we have includ ed in next year's military estimates a considerable sum for sanitary purposes, and in my memorandum I have detailed the principal items. The best energies of our sanitary and medical officers of the army are directed to search out the causes of enteric disease We have often been reproached with the small resu lts of these investigations I do not say we have succeeded in absolute results, but I hope we may be on the right track in the investigations and in the precautions taken. The idea that the germs of the disease may be air-borne and conveyed in dust, as well as in water or by food, seems to be increasing in strength, but there is some compensation; experiments in England appear to show that the typhoid bacillus quickly dies out in grass-covered areas, and we may hope therefore that the grass cultivation we desire to extend in Indian cantonments may be a helpful factor in our efforts to protect them. I specially mention this matter because of its enormous importance in connection with the health and efficiency of the army and because the losses in life and money exert a sinister influence on the estimates. The Commander-in-Chief has proposed, and the expense has been provided for, that at certain stations the troops shall be moved into camp at the proper season under field service conditions, so as to give these stations a period of non-occupation. We hope—and I have the full permission of His Excellency the Commander-in-Chief to say this—to increase the efficiency of the army by more extended training, by imparting increased flexibility to the plan of mobilisation, by the decentralisation of military business, and by the reduction of paper work and returns.

"It will be seen, therefore, that while—thanks mainly to the cessation of field operations and the improvement in exchange—we anticipate a saving of

£644,000, we have provided for many essentials of efficiency. But we have a good deal of expenditure looming before us. The re-organisation of the transport service, to which allusion has been made by the Hon'ble Sir Griffith Evans, is a most pressing matter, and my Hon'ble colleagues will note the large increase to the transport at home. The re-armament of the Native army and volunteers must be dealt with before very long. The carriages of horse and field artillery in England are being altered to enable the gun to be fired more quickly, but this is a temporary measure until the best quick-firing gun is decided on. It costs, I believe, a considerable sum per gun, and I hope we shall not need to adopt this expedient, although eventually we shall have to follow the home army when a quick-firing gun is introduced.

"The Hon'ble Mr. Chitnavis makes a proposal for the reduction of Army expenditure. He proposes to reduce the expenditure by reducing the number of British soldiers in India. That is a matter which has before now been mentioned in this Council; but I would ask him, does he really think that with a great empire like that of India to guard, with its thousands of miles of frontier and its enormous area and vast population, the British Army is more than a very moderate garrison for this great country? I gather, too, that he is in favour of calling upon the Imperial Exchequer to bear a portion of our military burdens. That, too, is a subject which has more than once been discussed in this Council. If he will be at the pains to read those large volumes, which now have some of the flavour of antiquity on them, containing the evidence given before Lord Welby's Commission, he will find a great deal said on that subject, and if he refers to the Despatch from the Government of India of 1896 and to the reply of the Secretary of State, dated the 21st February, 1897, on the Suakin charges, he will find the views of the Government of India and of Her Majesty's Government fully set forth.

"My Lord, the Hon'ble Sir Griffith Evans has drawn attention to the inadequate number of British officers with Native regiments. That is a matter which has been before the Government of India for many years. In his last speech in this Council Sir Henry Brackenbury laid great stress on the wants of the Army in this respect, and it was one of the first subjects which I took up when I succeeded to my present office. Certain representations were made, but as to the later history of the subject, I can only refer my Hon'ble friend to the statement made by the Secretary of State in the House of Commons a few weeks ago. Sir Griffith Evans has also referred to the Cantonments (House-Accommodation) Bill. This question, my Lord, has been considered for at least a quarter of a century, and I confess I was in hopes that we were approaching to some conclusion in the

matter. My Hon'ble friend will forgive me if I do not follow him into the legal aspects of the question. I can assure him that the representations of the Judges of the High Court of Calcutta will receive that respectful consideration which their position and authority demand.

"The question of military expenditure has been dealt with before in this Council by my predecessor Sir Henry Brackenbury and by myself. I do not think defence of military expenditure is needed, but, if it is, the best defence will be found in the Financial Statement of my Hon'ble friend Sir James Westland, where he shows that the increase of military expenditure has been only 29 per cent. in India against 59 per cent. in the United Kingdom in a period of fifteen years. The cost of the Army in this country is, as I have shown on a previous occasion, but a small percentage of insurance on the great trade of the Indian Empire. We may practise the strictest economy, but there is no means of reducing expenditure in any extraordinary way. I have shown what we have done, and what is still before us. The efficiency of the Army in India is of Imperial importance; to maintain and improve that efficiency is our task, and I trust that we shall never shrink from it."

His Honour THE LIEUTENANT-GOVERNOR said:—"My Lord, I have two remarks to make, and they shall be short ones. The first one is naturally about the allotment to Bengal. When it was evident that there would be a large surplus, I suggested to my Hon'ble friend the Finance Minister that opportunity should now be taken to adjust our financial affairs on the principles that were laid down in 1881. It was settled in that year that in the event of famine a Local Government was to meet the cost from its own balances as far as possible, but that if these did not suffice, and the Imperial Government had to assist, then the contribution of the Local Government was to be two-thirds of the funds in excess of its minimum balance. When famine came in 1896, the balances at the credit of the Local Government in Bengal were 58 lakhs, the savings of several years, carefully husbanded for various important works of public utility, notably the supply of feeder roads to our railways. Its minimum balance is 20 lakhs. Under the rules of 1881 the Bengal Government should not have been required to pay more than two-thirds of the difference between 58 and 20 lakhs towards the cost of any necessary famine works within its area. The provincial contribution should have been 25⅓ lakhs. But the famine in 1896 was a famine which struck not Bengal alone but every province in India, and under this unparalled pressure all rules had to give way: every Government had to give up its all to meet this calamity, and it did so without a murmur, for it knew the exigencies of the Imperial Government.

There was no alternative. The famine expenditure actually charged to the Bengal Government was 49 lakhs, 23½ lakhs more than it would have paid had it been possible at the moment to apply the rules of 1881. The actual balance at the credit of the Local Government sank to 10 lakhs, 10 lakhs below its normal minimum. Our actual balance now with every conceivable and practicable economy is 14 lakhs, and when it became certain that the Imperial coffers would be full to overflowing, I pressed upon my Hon'ble friend the restoration to Bengal of the 23½ lakhs, the excess of its actual over its proper contribution under the normal rules. The Hon'ble Member has given us 17. He will allege that grants-in-aid of the European General Hospital meet the difference. The hospital is one in which the Europeans of Assam and Upper India are quite as much interested as those of Bengal, and I regret that I cannot admit the sufficiency of the argument. But I regret even more that the Budget Statement contains no reference to a principle, which I consider of the highest importance, whether you look at it from the point of view of the Local or the Imperial Government. The idea of 1881 was to leave to the Local Government some of its savings even when it was overtaken by heavy and unforeseen calamity. Unless you do that, you leave it with no encouragement whatever to thrift and circumspection. Every Local Government will spend its balances every year in hot haste less the Imperial Government sweep all away in resistless rigidity. Money will be spent hurriedly on any local improvements that suggest themselves, and when famine does come the Imperial Government will find in the local treasury nothing but the prescribed minimum balance. In the interests, therefore, alike of the Local and the Imperial Governments, I think the rules of 1881 were eminently sound and wise, and should be most carefully maintained and reiterated.

"Then we have all heard from time to time of strained financial relations between the Imperial Government and its subordinates. These relations would be very much improved, I venture to think, if opportunity were taken to frankly recognize and reciprocate local help. It is true that all the Local Governments, except Burma, have this year received gifts—sometimes very precious gifts. But it is not easy for the uninstructed layman to discern the principles which have guided the distribution; and it is obvious that the more clear these principles, the less will be the jealousies with which these provinces meanwhile regard each other and the Imperial Government.

"I trust therefore that my Hon'ble friend will be able to renew the adhesion of his Government to those principles of 1881, which I regard as of far-reaching importance to our financial administration.

"I have just one thing more to say, my Lord. When the famine of which I have spoken burst upon India, I was the Member in charge of the Revenue Department of the Government of India. In that capacity I knew more than any other man what was the share of the Hon'ble Sir James Westland in the duties of the time. From the moment the terrible calamity became certain, his purse-strings were at once unloosed. For seventeen years, he said, the Government of India had been preparing for and insuring against this very event, and every expenditure which the Local Government and myself considered necessary for the saving of life should be met without a moment's grudge or hesitation. And it was so met. It is not possible that a disaster of the kind can overtake a nation without grievous suffering and loss of life; but if, as I believe, the sufferings of the people were mitigated as they never were before, it is in the first instance due to the prompt and open generosity with which the Finance Minister placed the entire resources of his exchequer at the disposal of the Local Government. I know this as no other man can, and I should not have done my duty to the Hon'ble Sir James Westland, if I had not taken this opportunity, before he leaves us, of giving my public testimony to the debt all India owes him for his attitude and his conduct in her greatest famine."

The Hon'ble SIR JAMES WESTLAND said:—"It is not possible for me to hear these last remarks of my Hon'ble friend Sir John Woodburn without acknowledging my gratitude to him for his recognition of my work at the time of the famine. What I did then I did as a matter of duty, and since, as His Honour has explained, we had been preparing year after year for the calamity which came upon us in the year 1896, if at that time we had declared that we were unfit to meet that calamity after preparation of seventeen years, I should have said that the financial administration of India had something wrong in it. I thank him very heartily for the recognition which His Honour has thus given me in public of the events of that time, and it will be for a long time a great encouragement to me to think that when Sir John Woodburn and I took in hand two or three years ago the question of financing a famine we worked thoroughly together, and worked together for the good of the Empire. And now, my Lord, having acknowledged these too generous terms in which Sir John Woodburn has referred to one incident of my administration, I come back to the Financial Statement and the financial discussion. I was quite prepared to learn, as I have from the course of the debate to-day learned, that the principal subject of attack upon the Financial Statement would be this: that we have not provided for any remission of taxation. Per-

sonally I do not see any very great necessity for my defending the action of the Government in this respect. I hold that we are right, on the face of it, under present circumstances, in refraining from dissipating, by remitting the existing taxes, the surplus of our present position, and if anything were necessary to justify my opinion in that respect I would refer to the commendation which has been bestowed in more than one quarter upon those words of warning which I thought it advisable to enter in the Statement, that until our surplus is assured not merely for the present, but for the future, I do not think we can afford to take up the critical question of remission of taxation. When last year I had to announce a prospective deficit, and when that deficit during the course of the year was increased by our having to undertake military operations on the frontier, I did not bring forward then any proposals to adjust matters by adding to existing taxation, and it seems to me that if we adopt the policy of putting off any proposals of taxation in a time of deficit, we are justified in so doing only because we intend to meet that deficit afterwards by the accumulation of a surplus. As I have pointed out in my Statement, if you take the whole of the four past years together—the two years of famine and war and pestilence, the one year which has just passed when pestilence still remained with us while famine and war had ceased, and the remaining year which is to come to us in the future, and whose events we know not yet—the whole of the four years would produce a very small surplus. You must, therefore, if you wish to judge of the general financial position in India, take the whole four years together, and it is only upon the establishment of a general position of surplus that you are entitled to take into consideration the question of remitting taxes. I have no intention of going into the question of what particular item of our taxation is the proper one to be first taken up for purposes of remission. Of course I have my ideas on the subject, and my opinions on the subject are on record, and are at the disposal of the Government of India when they come to consider the question; but under present circumstances I have no intention whatever of embarrassing the Government of His Excellency Lord Curzon by stating personal opinions on a matter in which they may possibly differ from me. The question must remain open, to be taken up and solved by those who will have the responsibility not only of solving it but of meeting the possible consequences of the remission. There are only two minor questions in connection with this subject on which I will offer some remarks to the Council: the one is with reference to the proposal made by the Hon'ble Mr. Chitnavis that part of our surplus should be dissipated by reducing the rates of postage; the other, the grievance which the Hon'ble Sir Griffith Evans has brought forward in respect of the Native Christians of the

Madras Presidency. As regards the first of these, I would remind the Hon'ble Mr. Chitnavis that in India we have the cheapest postal service in the world. There is no other postal system which pretends to carry a letter outside extremely limited areas, for anything approaching to our half anna rate. The English postage is a penny, that is, an anna. We in this country have a half-anna rate, and that half-anna rate will carry a communication from one end of India to the other. There are two ways of cheapening postage, that is to say, two directions in which it is possible to administer a post office cheaply. You may carry a big weight at a small rate. That is what has been done in England latterly; they have increased, if I remember rightly, the penny rate so that it covers four ounces of a postal letter. That is extremely well adapted to a country where business is carried on on a very active scale, where large business documents have to be sent from one end of the country to the other; and in England these large documents have to be sent in thousands from place to place. The cheapening of postage in a place like England therefore is in the direction of carrying large weights for what is considered to be the unit of postage, *viz.*, a penny. In this country the direction of cheapening postage is different. We have a large and comparatively poor population whom we want to serve. We do not want to serve them at a loss. We only ask them to pay the actual carriage of their letters. We institute therefore a cheap rate of postage, that is, a specially cheap rate, lower than the ordinary unit rate, for light letters which are sufficient for their wants, but which, if charged at the penny, or unit, rate, would cause to them a considerable expense. It seems to me that the claim to the reduction of postage is founded upon a false analogy. The cost of carrying a letter consists of the maintenance of the office at the place of reception, the carriage, and the subsequent maintenance of the office of delivery. These three items are practically exactly the same whether the letter is a letter of a half tola or a letter of two tolas. Therefore, so far as the matter of calculation goes, the attempt to show that because we carry a package, a newspaper or a letter at so many tolas per anna we ought to be prepared to carry a letter at one, tola per anna, is an argument which leaves out of consideration the fact that the actual cost of carrying a letter is very much the same, however big it is. I admit you can carry that argument further, and argue that if you can carry a letter of half a tola for half an anna, you ought to do the same with a letter of four or five tolas; but an arrangement of the kind would too much diminish the postal revenue; and therefore we regard the half anna rate as a cheap postal rate existing outside the unit scale, and adapted in a special way to the correspondence of a poor but extensive population, but not required for what may be called business purposes. Taking the whole of the letters which

are posted in India, about 85 per cent. of them are letters of the half anna rate, and that 85 per cent., as I have pointed out, we carry at the cheaper rate; so that practically the bulk of the correspondence in India is carried at the cheaper rate for the people than any other post office in the world attempts.

"As regards the Hon'ble Sir Griffith Evans' remarks regarding probate and administration affecting Native Christians, the only remark I have to make is that it is not a financial question at all—that is, the difficulties in the way are not financial ones. They come into the mesh of the probate and administration duties, like a great many other people do. They may be particularly unfortunate in being caught in the words of the law, whereas other people in similar circumstances, who do not profess the Christian religion, are not caught; but that is not a financial question As the Hon'ble Mr. Rivaz, to whose department this particular subject naturally belongs, has said, if the Government of India receives representations—definite proposals from a responsible authority and not merely vague statements that something requires remedy—they will obtain favourable consideration in his Department and they will not meet with opposition in the Financial Department.

"The Hon'ble the Maharaja of Darbhanga has made various proposals for diminishing the surplus in the direction of admitting expenditure, and I have no doubt there are a very large number of objects which can be stated as extremely desirable objects of expenditure. I shall not enter upon the question of railways and the reduction of railway fares and the increase of railway conveniences. That is a matter for my Hon'ble colleague Sir Arthur Trevor. Railways in this country do not as a whole pay their way. We lose on the whole; I am talking of the financial results only and leaving collateral advantages out of account. The net earnings of the railways fall short ordinarily by about two crores of the interest we have to pay upon the capital which has been raised for their construction. If we run them at a loss, that loss must be borne in mind before we reduce rates or introduce new conveniences at a cost to the revenue. The Hon'ble Member is not quite right in saying that we ought to regard railways purely from the point of view of public convenience. If we launch out into extravagance in railway management and cease to make our railways pay, we shall be obliged to curtail construction. We cannot go on increasing a losing business.

"Then among the proposals for expenditure, one thing has been urged upon us both by the Hon'ble the Maharaja of Darbhanga and also by the Hon'ble Sir Griffith Evans, namely, the necessity of supplementing the salaries of the High

Court Judges. I do not wish to say anything about this subject. With certain parts of the Hon'ble Member's statements I agree, with certain others I do not. But the question of the High Court Judges' salaries has got to be approached from the same point of view as that of the salaries of other high officials, that is to say, if you can get a good enough man for Rs. 5,000 a year, you need not pay him Rs. 6,000. I am not prepared to say whether to judge by this standard the High Court Judge is properly paid or not, but I apprehend that this is the kind of standard by which the question has to be judged. I would rather drop the question of High Court Judges, because it is a ticklish question; and, as the Hon'ble Sir Griffith Evans has said, it is a matter about which last year I had a passage-of-arms with Sir Henry Prinsep. But I certainly do not agree in the claims that are made on behalf of Sub-Judges and ministerial officers. I have often heard the expressions 'hard-worked and under-paid,' but, whatever may be said as to under-payment, I cannot possibly agree that any officer is over-worked who as a matter of fact works only between 220 and 230 days in a year. That is actually the reckoning of the Subordinate Courts in Bengal. That they work hard during that limited time I do not deny, but, as they work at an average of only four days out of the seven in each week, I do not think it can be called hard work. As regards ministerial officers, I know this question has been raised and has been long argued in Bengal. The ministerial officers can no doubt get all the native newspapers in the place to represent their grievances, and they say it is very hard lines that they should be expected to do their work on Rs. 30 a month; but I would ask the Hon'ble Mr. Allan Arthur, who is one of the leading merchants in Calcutta, whether as a matter of fact he or other merchants pay their newly joined clerks Rs. 30 a month. One thing is extraordinarily irrelevant, and that is the argument put forward by the Hon'ble the Maharaja of Darbhanga, that we ought to pay these men more because they have big families. I think they ought to restrain their procreative proclivities. We want to get men to do our work, and it is notorious that a proffered salary of Rs. 30 a month in Government service would bring forward any number of candidates; and so long as we can get any number of men on Rs. 30 a month I cannot see that we are justified in paying out of the public purse Rs. 40 or Rs. 50, merely because the men who accept service have large families and because they would like to live in greater luxury or comfort. It is a serious business to give the whole of the Government servants an increase from Rs. 30 to Rs. 50 per mensem. I do not know how many thousand clerks there are in Bengal, but it appears to me it would make a big hole in the estimates of His Honour the Lieutenant-Governor if that general scale of pay were to be introduced into

Bengal. There were lengthy investigations into the subject when the subject was brought before the Legislative Council of His Honour the Lieutenant-Governor. At that time the Hon'ble Mr. Risley gave a complete answer to the calculations which were made by the committee which recommended an increase. They went through the cost of living in a most extraordinary manner, and made up an estimate as follows: rice had increased by 10 per cent., something else—a principal article of consumption—had increased by 20 per cent., condiments had increased by 230 per cent., total 260 per cent.—average increase 83 per cent. That calculation is preposterous. Every person knows that condiments are only a small part of a man's food, and the fact of this charge having increased to a large extent does not prove that the general cost of living has largely risen. Then the Hon'ble the Maharaja of Darbhanga tells us that the cost of clothes has increased. It may have increased in one sense, that is to say, officers of that class are accustomed to appear now in more comfortable raiment and better clothes than they used to wear. So far as the actual price of clothing is concerned, there is no doubt that the cost of cotton clothing in this country has decreased. I mention these things merely to point out that these matters have really received very complete investigation, and that complete investigation has not fortified the claims which have been put forward by the Hon'ble Maharaja.

"In my estimates of revenue I observe that one or two objections have been made, partly by the Hon'ble Mr. Mehta and partly by the Hon'ble Mr. Chitnavis. They tell us that we are coming down upon the raiyat and malguzar with demands which they are not able to sustain. I am told by the Hon'ble Mr. Mehta that it is due to the extreme rigid system of revenue. I want to ask him one question. If this revenue system is rigid, how does it come that there are such things as arrears to collect at all? The Hon'ble Mr. Mehta admits that the revenue-officers have been allowed a discretion as to making remissions and suspensions, but he says the rigidity of the system lies in the fact that the revenue-officer does not exercise these powers. He could certainly allege that the system was rigid if the revenue-officer had no powers of the kind, but if the revenue-officers are allowed to exercise powers of suspension and remission and do not exercise them, then I think the argument is that they have not found occasion to do so, and that they have found in each case brought before them that the revenue can be paid, and ought to be paid. There have, as a matter of fact, been large remissions and suspensions of revenue made during the famine, and the Hon'ble Mr. Chitnavis is not correct in thinking that the whole amount of these suspensions have been called in at once. It has been called in in instalments, precisely because our main revenue system is not rigid, and has been adapted in each case to the ability of the revenue-payers.

"Now I come to the subject of Provincial Contracts, a very thorny subject, because it is a subject in which the Government of India has got to meet the claims of eight several bodies, each of whom considers that it has the first right to attention in the matter. The Hon'ble Mr. Mehta has stated the case forcibly for the Government of Bombay. The Hon'ble Mr. LaTouche has told us that it is ridiculous to expect the North-Western Provinces to get on without a very considerable increase. His Honour the Lieutenant-Governor of Bengal has told us of the dreadful jealousies which spring up between various Governments because they are differently treated, and wants to have fully explained to them why one Government gets fifteen lakhs and another Government only gets ten lakhs. I could give some explanation of that. The Hon'ble Mr Rees, I am glad to say, admits that his Government has been very fairly treated, both in the matter of grants, and specially in the matter of railway construction; but I do not know whether Mr. Rees is acquainted with the complaints we have got from the Government of Madras on the same subject. They do not appear to be at all satisfied. They put forward exactly the same claims as the others, namely, that they are left behind in the race and that they do not get half enough money as compared with other Governments."

The Hon'ble MR. REES: "I regret, My Lord, to have to interpose, but I expressly abstain from any reference whatsoever to the Provincial assignment and the Provincial Balance. My remarks referred to railways, and I purposely left all controversial matters to my friend the Hon'ble Mr. Ananda Charlu to deal with."

The Hon'ble SIR JAMES WESTLAND: "I am glad the Hon'ble Mr. Rees did, for the subject of Provincial assignments is a thorny one. It is very hard lines upon a Finance Minister that he cannot concentrate all these Governments into one pen and tell them to fight it out, but has to explain to each of them that it ought to be satisfied with the funds it has got. I cannot help remarking that a good deal of this controversy, which I admit is very unsatisfactory, arises out of a departure which has recently taken place from the principles upon which the provincial system of contracts were originally established. I have here the Financial Statement of Sir John Strachey of 1877-78 in which he quotes from a minute written by himself at the time of the Provincial Contracts being instituted. It is well known that Sir John Strachey had a very ample share in the institution and revision of the system. I will read two sentences which will lead me to the precise points I now want to bring forward. He says:

'The Government of India had totally failed to check the constant demands for increased expenditure: there was only one remedy to pevent the demands being made,

and this could only be done by imposing on the Local Governments a real and effectual responsibility for maintaining equilibrium in their local finances; there could be no standard of economy until apparent requirements were made absolutely dependent upon known available means. It was impossible for either the Supreme or Local Governments to say what portion of the Provincial revenues was properly applicable to local wants; the revenues of the whole of India went into a common Fund, and to determine how much one owed to another was impracticable.

'To Lord Mayo belongs the honour of applying the only effectual remedy for these serious evils; he resolved to give to the Local Governments the economical standard which they required; to make over to them a certain income by which they must regulate their local expenditure, and to leave to them, subject to certain general rules and conditions, the responsibility of managing their own local affairs.'

"But the Local Governments now claim to work on a principle exactly the reverse of this, namely, that when they have desirable expenditure, for which they do not possess adequate funds, it is obligatory on the Imperial Government to assign to them additional revenues, in order to enable them to meet the demands.

"Now let me go back a bit to theory. No Government can conduct its financial affairs if it permits its expenditure to increase at a faster ratio than its revenue. I take that as a fundamental principle. Well, it is necessary to separate off, as it were, various branches of expenditure and various branches of revenue in order to relieve the Government of India of the strain of applying this limitation to the whole revenue of India and the whole expenditure of India taken together. What it did was this, it assigned certain increasing revenues on the one side and certain increasing expenditure on the other, and it laid upon Local Governments this obligation of limitation in respect of the portion of revenue and the portion of expenditure which was assigned to it. The argument was that you—the Provincial Government—must take care that the portion of the expenditure which is assigned to you does not increase at a greater ratio than the portion of the assignment of revenue. The revenue and expenditure assigned being on the whole equal, it was calculated that this limitation, if properly applied would, as it were, take that portion of the provincial expenditure on the one side and provincial revenue on the other side out of the general limitation, because, obviously, if every Provincial Government kept its provincial expenditure within an increase of its provincial revenue, it would have carried out the necessary general limitation so far as regarded the particular portion of provincial expenditure assigned to it. Take the case of Bombay. A grievance has been made by the Hon'ble Mr. Mehta. The

revenues which were assigned to Bombay under the contract of 1892 were so exactly equal to the demands made upon them that for the first four years of the currency of that contract out of some crores of expenditure the total excess of expenditure came to only ₹6,000. The finances were then under the management of the Hon'ble Sir Arthur Trevor. That was proof positive, if anything could be proof positive, that the expenditure if properly limited could be limited within the rate of the increase of the revenue. After that we came to settle the contract again in 1897. The Government of Bombay, as the Hon'ble Mr. Mehta tells us, wanted 13 lakhs extra per annum. It had managed to get on under its existing assignment, and, as I pointed out, the existing assignment was sufficient to meet for the first four years of the contract the whole of the expenditure. We said we could not possibly give the additional 13 lakhs asked for, because that would be going beyond the fundamental limitation in the finances of India taken as a whole; we would be allowing an increase of expenditure larger than the available increase of revenue. Therefore the 13 lakhs was refused, and we told the Government of Bombay that it must go on with the same assignment that it had before. The Hon'ble Mr. Mehta, in talking of the negotiations which went on there, referred to a delay which took place in those negotiations, and he considers that delay was made for the purpose of screwing 10 lakhs extra out of Bombay. He did not go on to tell you that we did not get that 10 lakhs, nor did we ask for it. Moreover, the delay was not made at our instance, but at the instance of the Government of Bombay entirely. I think it a little dangerous to depart from the usual rule of public criticism, that is, to refrain from attributing motives, and I make this remark not only with reference to the allegation made in this particular case, but also the further statement by the Hon'ble Mr. Mehta regarding the delay in the pronouncement of the Welby Commission. I think we must take it for granted that, although we cannot account for that delay, the delay at least is not attributable to any intention on the part of Lord Welby or any person in England to do something iniquitous. I do not think one is entitled to call in question the motives of public men who are not here to defend themselves. I have no doubt that the Provincial Governments found themselves straitened in means, owing to the calamity of the famine. It is part of the provincial system in India that the savings which occur from year to year from good administration should be piled up in order to meet a possible calamity such as came two years ago. It is a necessary consequence that when that calamity occurs their balances should be dissipated, and the Provincial Governments should find themselves with an empty exchequer. There is a mistake also about this question of balance—a mistake which I tried to correct when Mr. Mehta was delivering his speech. He is quite right in quoting from the

Financial Statement, that I said in one paragraph there that the Provincial Government would finish on 31st March, 1899, with a balance of *nil*; but that statement is made in working off a calculation, and, if the Hon'ble Member had read further on, he would have found that, starting from that point, we make a credit of 15 lakhs, so that we convert a balance of *nil* into a balance of 15 lakhs to the good. One thing I want to point out also—the Provincial Governments do not require a working balance. We undertake to meet the claims of the Provincial Governments upon our Treasuries so long as these claims are within the limit of the estimates which have been passed by us. The consequence is that if a Provincial Government starts with a balance of *nil* it is nevertheless perfectly in a position to carry out the whole of its financial operations during the year. The Hon'ble Sir Edwin Collen, for example, spends, I suppose, 15 or 16 crores of rupees a year. He has not got a single rupee to his credit; all that he has to his credit are Budget grants. It is exactly the same with Provincial Governments. They do not require a working balance. His Honour the Lieutenant-Governor has referred to a paper of 1881 which regulates the issues of these balances in meeting the demands of special calamities. He founds upon that a calculation that we ought to give him, in order to carry out our own principles of contribution, 23½ lakhs. I put against that demand first our contribution of 15 lakhs. I have given further a free grant of two lakhs for distribution at His Honour's discretion, 2½ lakhs which I gave and which are referred to in the third paragraph of the Financial Statement, and a further grant of 10 lakhs which was made last year to the General Hospital. That comes altogether to 29½ lakhs; so that if His Honour returns to me the six lakhs which I have given him extra, our accounts will, so far as this reckoning goes be exactly square. But I make no such demand: the truth is that that order of 1881 broke down in its operation. The order is that when a calamity comes we call upon Provincial Governments to spend upon it two-thirds of their balances; and the remaining one-third we say we will not touch. But the fact is that with the famine of 1895 came not only a demand for expenditure but a failure of revenue, and this failure in the case of most of the provinces ate up much of the balance which should have, according to the system prescribed by rule, been available for expenditure. However, I quite acknowledge one thing, namely, that the Bengal Government, when famine and plague came upon the land, spent very freely out of its balances. But then the other Governments have done the same so far as their balances were not eaten up by failure of revenue. To make good a great deal of plague expenditure we have had to make large grants to Bombay on account of this very heavy expenditure. We have made grants for the

same purpose to Bengal, and we have also made grants to Madras. I am accused of being ungenerous to Madras, but these three lakhs which the Government of India gave to them the other day will show that we have some feelings of generosity even towards the Southern Presidency, although I quite admit the money is given in the ordinary way of business. The rule is that when a Provincial Government's resources are exhausted the Government of India steps in and takes over the expenditure, but we cannot undertake to take over the expenditure *ab initio* and place Local Governments in the same position as they would have been had there been no calamity. That is a claim which has been put forward by more than one of those Governments. But the principles adopted by the Government of India are based on the following views of the Famine Commissioners of 1881 :—

'The extent to which the Provincial revenues at the disposal of the Local Governments will enable them to meet famine expenditure is a subject on which we need not enter at length. In a time of exceptional financial pressure such as every period of famine must be, there can be no question that any outlay which is not obligatory should be postponed, and so far as the ordinary and necessary expenditure on public works can be directed to the relief of persons in distress, this also will be advisable. The extent to which aid from the resources of the Central Gvernment should be given will have to be determined as each case arises, and there can be no doubt that in all cases of severe drought this liability will occur.'

"We cannot therefore undertake to relieve Provincial Governments of all anxiety on the subject of famine and plague. When calamities of that sort are abroad we must restrict our expenditure in other directions. It is impossible for us to undertake the expenditure of plague and famine as an Imperial expenditure, and tell Provincial Governments that they can go on with their ordinary expenditure in exactly the same way as if they were not restricted by considerations of current calamity. No doubt figures and statistics can be produced, and are produced, by every Local Government to show that that particular Local Government is the one which requires more generous treatment and has received less generous treatment than any of the others at the hands of the Government of India. I say it is very difficult for a Finance Minister to stand with his back to the wall and argue matters out for each Local Government separately. The only suggestion I can make is that these matters should be considered not by one Local Government disputing with the Supreme Government, but by the Local Governments combining and informing each other of their respective needs and trying to convince each other of their respective claims.

"The Hon'ble Mr. Smeaton made reference to the question of financing the rice-trade in Burma, and he makes a complaint that we give in this respect

a monopoly to the Bank of Bengal. The Bank of Bengal maintains a monopoly, I admit, but it is a necessity of its position. Two or three years ago I was down at Rangoon and had a conference with several merchants of Rangoon upon this very subject. They told me that they objected to the monopoly of the Bank of Bengal, and they would be very glad if, instead of giving these transfers solely to the Bank of Bengal, I would give these transfers also to the Exchange Banks or to merchants direct. I told them I was perfectly willing to do so, but I was convinced they would not take advantage of the offer. The fact is that no merchant can afford to quarrel with this Bank or compete with it. The Exchange Banks in this country have not got spare funds. They will not lay down funds in Rangoon to finance trade, because they have not got spare funds with which to carry out the operation. They prefer therefore to make arrangements with the Bank of Bengal, by which the Bank of Bengal will hold money at their disposal whenever they want it. As a matter of fact, in consequence of my talking over the matter with the merchants in Rangoon, I published a notification in Calcutta at the usual time when we arrange for these transfers, saying that the Exchange Banks and others might tender in competition with the Bank of Bengal for the transfers we had to offer. Not one of them made a tender. It pays them to get their money from the Bank of Bengal in Burma better than to come to me for it in Calcutta.

"The Hon'ble Mr. Allan Arthur has referred to the cost of telegrams. I do not like to say anything more than this, that the matter has engaged the attention of the Secretary of State. How far he has gone is more than I can say, but the obstacle has been the claims of the Companies. Whether we will be able to get round these claims of the Company by giving a guarantee is more than I can say. I have no doubt that after the remarks of such an authority as the President of the Chamber of Commerce of Calcutta, the subject will be taken up again. I dare not follow him on the question of currency, although the remarks he has made will be useful and no doubt will have their weight; still it is not proper for me to deal with the matter otherwise than as one which is under the judgment of a committee sitting at home. I have long refrained from expressing opinions myself regarding currency. It is a difficult subject, and I always find that it is something like a theological question which tends to produce the greatest bitterness of controversy. No person, it would appear, can hold a definite opinion without believing that he is the only person who is right and those that differ from him are wickedly and criminally and intentionally wrong.

"And now, my Lord, it may be permissible to one who is in my position, and who is about to give up charge of the office which he has held for so many years, to utter a word relating to himself personally; and I would be very unwilling to give up my office without expressing the great obligation under which I have been placed during the whole of my service by the officers and subordinates of the Financial Department. I would not mention any names. There are too many whom I personally know and of whom I have an extremely high opinion. There are too many of them to bring their names before the Council, but there is one name I would mention. It is a matter of great grief to me that my last year of office should be signalised by the death of one officer who during part of my tenure of office was my right hand man, who was distinguished above all officers by his knowledge of the work of the department, and who was eminently suited to be the head of it—I refer to Mr. Stephen Jacob, over whose grave I stood last December—a man whom I had known for twenty years, outside the department as well as in it, and for whom every member of the department had the profoundest respect. And now, my Lord, I wish to thank the Hon'ble Members for their goodness in referring to me personally and to the circumstances under which I hand over charge of my department to my successor. I am pleased to be able to do so at a time when everything looks prosperous. It depends neither upon me nor upon him, nor does it depend on Your Excellency's Government, to make sure that that state of things should be maintained. I hope there are good times in store, that this season of prosperity will last sufficiently long to enable Your Excellency's Government to take up the questions which have been pressed upon us to-day, namely, that of the remission of part of the existing taxation. It would have given me great pleasure, after having had something to do with increasing the people's burdens in this land, had I had the opportunity of taking part in the remission of them. I believe it, for the reasons I have stated, premature to do so, and therefore that task I hand over to my successor. In this country changes of *personnel* are very frequent. One's name remains for a short time, but I think one's work remains longer; and although perhaps my name and its connection with the Financial Department of the Government of India—a connection lasting now 29 years—may shortly be forgotten, yet I am convinced that part of my work will remain behind me, and that I shall have done something by that work to make some return to India for all that I have received from her."

His Excellency THE PRESIDENT said:—"I am glad to think that I need not detain my Hon'ble colleagues by remarks of any great length. The discussion to

which we have listened has been far from devoid of interest; but although it has elicited differences of opinion, such as may legitimately be expected, it has, on the whole, been marked by an unusual unanimity of sentiment, due, no doubt, in the main to the prosperous circumstances in which we find ourselves, but nevertheless gratifying both to the Government and to the Financial Member, with whose last Indian Budget we are dealing. The official life of Sir James Westland, to whose affecting farewell we have none of us listened without emotion, has been, as he has just told us, indissolubly bound up with the finances of India. This is the seventh Budget that he has introduced into the Legislative Council of Government. Few Chancellors of the Exchequer in England, where the conditions of public employment are more permanent, have introduced a greater number. I doubt if any Indian Chancellor of the Exchequer has introduced so many.

"In neither country, I imagine, has any guardian of the public purse been confronted in the course of his official career with more marked vicissitudes of fortune than has Sir James Westland. He is happy, I think, in this—that his fat years have followed upon his lean years, instead of preceding them; and I can well believe that the anxieties and worries which have distracted him in times past are now forgotten in the glow of honourable satisfaction with which he can regard the termination of his labours, and can congratulate India, not less than himself, that he leaves her upon an ascending plane of material and economic progress.

"If the Finance Member in India is chided and reproached for his misfortunes in bad times, at least he should not be robbed of his share of the credit for better days; and I am sure that Council will cordially join me in assuring Sir James Westland of our grateful appreciation of his long and arduous labours, and in wishing him equal success in whatever work he may set his hand to in the future.

"With regard to his speech, to which we have just listened, I would also say this—and I would say it from personal knowledge—that he has represented himself as a much less charitable individual than he really is. To myself it is, I confess, a source of no slight pleasure that the first Financial Statement to which I should have listened in this Council has been one of so gratifying a description. My belief, more than once expressed on previous occasions, in the economic vitality of this country, in the solidity and range of its resources, and in its capacity for an industrial expansion far beyond what has hitherto been deemed possible, is

confirmed by the experience of the past year. I recognise that the circumstances have been exceptionally favourable. War has fortunately ceased upon the frontier. There has been a high and an almost uniform rate of exchange. There has been a notable expansion in certain industries. The harvests have been abundant. On the other hand, there have been corresponding sources of depression and alarm in the recurrence of plague, which neither the resources of science nor the utmost administrative vigilance have so far succeeded in defeating, and which has made heavy inroads upon the Imperial as well as upon the Provincial exchequers. That the net result of these contending influences should yet be a balance of 4¾ crores is indicative to my mind not merely of uncommon powers of recuperation, but of a marvellous latent reserve of strength.

"We have been criticised in these circumstances for not having proposed a remission of taxation; and that criticism has found capable expression in more than one quarter at this table to-day. I quite understand, and I do not in any degree deprecate, such criticism It is the natural and legitimate desire of taxpayers all over the world to obtain relief from what they regard, or at least represent, as their burdens, and to feel the passion for relief swelling in their bosoms in proportion to the apparent existence of the means for satisfying it. I doubt not that the payers of income-tax would have welcomed an extension of the scale of exemption. The Hon'ble the Maharaja of Darbhanga pleaded their cause with great ability, and was anxious for the extension of that scale from Rs 500 to Rs 1,500; the Hon'ble Mr Charlu took much the same view, and the Hon'ble Mr. LaTouche pleaded for some relaxation of the same system. I may add also that it is equally the desire of Governments not merely to earn the popularity that may result from a remission of taxation—although my experience is that popularity so won is a very ephemeral asset—but also in the interests of good government itself to reduce the burdens upon the people. But there are considerations in this case, both normal and exceptional, which decided us to take the opposite course.

"The normal consideration of which I speak was that of ordinary caution. Though I have spoken of the astonishing recovery of the past year, though I believe it to represent a much more than transient improvement in the resources of the country, and though Sir James Westland budgets for a surplus of nearly 4 crores in the coming year, I am yet too conscious of the part played by what I may describe as the swing of the pendulum in the economic world to be willing to sacrifice any portion of a hardly won advantage by being in too great a hurry. The Hon'ble Sir Griffith Evans has reminded us that India is a land of surprises, and these surprises are liable to start into existence equally in the spheres of politics

and finance. Even in the more sober atmosphere of England we have had during the past year a startling instance of this phenomenon; for whereas, in the plenitude of our wealth and substance, the Government of which I was a member a year ago agreed to a remission of taxation by which we forfeited in the case of one duty alone a sum of nearly 1½ million sterling without, so far as I remember, exciting any gratitude from anybody, within the space of a year the balance has so completely swung round owing to unexpected calls that, if what I read in the papers be correct, there will be no cause for surprise should the forthcoming Budget contain proposals for the recovery of considerably more than was then remitted. To reduce taxation in one year and to re-impose it in the next is a condition to which Governments have frequently been driven by unforeseen events. But it is one which it is better to avoid by an excess of prudence at the time than to meet with whatever ingenuity at a later period.

"The special circumstances which more even than these general considerations decided us against any remission of taxation in the forthcoming year are known to all. It is not unlikely that we may be invited before long to inaugurate momentous changes in the financial system of the Indian Empire What these changes may be none of us as yet know, and we reserve our entire liberty to examine and consider them when they are submitted to us by Her Majesty's Government as the result of the expert enquiry now proceeding in London. But it must be obvious to the least informed that the prospects of any such change as we may decide to undertake must depend very largely upon the position and the credit that we enjoy at the time in the eyes of the world; that they will be enhanced by the evidences of financial strength to which a large balance and expanding resources are the best testimony; and that they might be correspondingly imperilled by any stringency or insecurity here. We may be called upon to take steps that will affect the entire future of Indian trade and finance. We cannot afford, therefore, to slacken our hold upon any implement that may conduce to their success.

"There is another respect in which we may be thought to have carried caution to excessive lengths. The Hon'ble Member has framed his estimates for next year upon the basis of a 15¾*d.* rupee. This has been variously explained as typical of the prudence of one whom I may perhaps without offence describe as 'an old financial hand,' or as prompted by a chivalrous desire to present a larger surplus than is apparent on the surface to his

successor I understand that both interpretations have been repudiated by the Hon'ble Member to-day. May I however add—and I do not think that I shall err on the opposite side of optimism in so doing—that this under-estimation, for so I think it may be called, must not be taken to indicate the least want of confidence on the part of the Indian Government. For my part I have every belief that the rupee will retain throughout the ensuing year the same position that it has done during the past; and I may even go further and say that I shall be disappointed if we are not able to invest the 16*d*. rupee with a greater durability than any which it has hitherto attained.

"I am glad to have heard in the speeches of those Hon'ble Members who have special knowledge of the circumstances and needs of outlying Provinces, notably in the speech of the Hon'ble Mr. Rees speaking for Madras, and I think, if we will allow me to say so, speaking for interests rather more wide than the railways of Madras, and in the speech of the Hon'ble Mr. Spence speaking for Bombay, a generous recognition of the assistance that has been rendered by the Government of India to those of the subordinate Governments who have been in distress. For a few months before the Budget is finally made up, and while the lips of the Finance Member are still sealed, he is the object either of passionate objurgations or of piteous appeals from those who think that they are going to get less than their due share of the Imperial superabundance, and who in the agony of their apprehension not infrequently appeal to the large-hearted impartiality of the Viceroy to rescue them from the niggardly prepossessions of the Finance Member. Such at least has been the experience of Sir James Westland and myself during the past few weeks. Meanwhile the Finance Member holds his counsel, and behind a front of iron conceals a melting heart. The result is that, now that the figures have transpired, it is I believe generally admitted that we have dealt liberally with our suffering brethren.

"The Hon'ble Mr. Mehta indeed argued that inadequate treatment had been given to his Province of Bombay. Now let me assure him that I have specially interested myself in the fate and fortunes of Bombay. I have been in frequent correspondence with its Governor on the subject, and I have been most anxious that financial justice should be tempered with some financial mercy. I believe that the Government of Bombay are themselves on the whole content with the treatment meted out to them; and I was glad to find that the Hon'ble Member, although he commenced his remarks in a tone of criticism, ended them in a spirit of generous, and I might almost say of wholesale, congratulation The ordinary grants, as I may call them, that we have made to the

Provincial Governments, in relief of the heavy burdens which have been laid upon them by the direct charges of plague and famine, amount to 42 lakhs. We have given to them in addition an extraordinary sum of 70 lakhs, a gift which, while it is no criterion of ordinary opportunities or deserts, and while it must not be interpreted by them as a precedent upon which they can rely, is yet, I hope, fairly proportionate on the present occasion both to our abundance and to their needs. The Provincial Contract System is one for the successful working of which a good deal of consideration is required at both ends of the scale; and I hope that the Provincial Governments, while they press upon us the obligations of munificence, will not lose sight of the corresponding obligation of economy.

"I am entirely in agreement with some of the remarks that fell from the Hon'ble Mr. Arthur with respect to the present high rate of telegraphic charges. I regard that rate as inimical to trade, as being a barrier to the ever-growing intercourse between India and the mother country, and as being obsolete and anomalous in itself. I have already considered the question, and I may say that I have placed it in a category of twelve important questions, all of them waiting to be taken up, all of them questions which ought to have been taken up long ago, and to which, as soon as I have the time, I propose to address myself. What these questions are I do not propose to relieve the curiosity of Hon'ble Members by now informing them. It is conceivable that I may have to add a thirteenth to their number in respect of the appeal of the Hon'ble Sir Griffith Evans with regard to the Small Cause Court Judges in the Mufassal. That is a question with which I am necessarily not myself familiar, but, while I understand the Finance Minister to have answered him on the point of finance, the impression left on me by Sir Griffith Evans' remarks was this, that he was arguing the case not from the point of view of pay but from that of character. It is from that point of view that the question is deserving of the attention of the Indian Government, which attention I shall be glad to give to it. But another question has been raised by an Hon'ble Member sitting at this table which I am unable to add to the dozen already alluded to. I am unable to add to it the suggestion of the Hon'ble Mr. Chitnavis that I should acquiesce in the reduction of the British soldiers in India. I can assure him that no such proposal will form part of the programme of the Government of India during my time.

"As regards Railways, Sir James Westland has indicated in his Budget Statement that for the moment our motto is *festina lente*, although this must

not be taken to mark any policy of revulsion from that which has lately been pursued. There are times, however, at which it is desirable to go a little slower than the maximum pace. I am, however, rather in sympathy with what fell from the Maharaja of Darbhanga concerning the encouragement of light gauge feeder railways, and since I came here I have authorized the construction of some hundreds of miles of such lines I should say in this context that one of the subjects to which I propose to turn my attention while at Simla is the whole question of the policy of Government in respect of railways in India, and our attitude towards private enterprise in particular. I am not satisfied with a condition of affairs which lays the Indian Government open to the charge—whether it be true or false I have not as yet the knowledge that enables me to pronounce—of indifference to the offers of assistance that are made to it, and of hostility to the investment of British capital in the country. We may hope much from fixity of exchange if we can succeed in establishing it. I should be glad if the Government could at the same time by its own attitude encourage what I hope may before long be a pronounced inclination towards India of the financial currents in the mercantile world

"The subject of Irrigation is one that appeals very closely to my concern. We are all familiar with the aphorism about the service of the statesman who can make two blades of grass to grow where only one grew before, and in India we do not need to be reminded of the direct and almost immediate benefit to the agrarian class that results from an increase in the area of cultivation. I shall not embark upon any discussion of the rival advantages of irrigation and railways, because such a discussion would not be germane to this debate, and is in reality futile. The Government of India has never been inclined to balance its duties in these respects one against the other, and would, I think, be unwise to do so. Nevertheless the annual allotment of 75 lakhs which has for some time been made to irrigation might, I think, with advantage be extended, and I have presuaded Sir James Westland in his estimate for the forthcoming year to give me another 10 lakhs for that purpose. I had asked for more, and he would have been willing to give me more But a scheme of irrigation is not a project upon which you can start quite as expeditiously or as easily as you can upon a railroad In the first place, the best areas for the purpose have already been utilised. Fresh schemes are likely to be less profitable, and therefore require more consideration, than their predecessors In the next place, very careful surveys require to be made, levels have to be taken, a staff must be got together, an investigation of existing rights has in all probability to be undertaken. It is not the case therefore, as is sometimes imagined, that as soon as the cheque is

drawn, it can at once, so to speak, be cashed in terms of tanks and canals. For these reasons it has been found that we are not in a position in the forthcoming year to spend more than an additional 10 lakhs upon irrigation; although in succeeding years, if our finances continue to flourish, I hope that we may present to you a more extended programme. I am about, in the course of a visit to the Punjab, to inspect the great irrigation works that have been taken from the Chenab River, and which were favourably alluded to in the speech of the Hon'ble Pandit Suraj Kaul, and I shall hope to learn a good deal there both concerning the present system and as to future requirements.

"It only remains for me to thank you for your co-operation in the labours of the session which is now about to conclude, to terminate this discussion and to announce that this Council is adjourned *sine die*."

H. W. C. CARNDUFF,
Offg. Secy. to the Govt. of India,
Legislative Department.

CALCUTTA;
The 30th March, 1899.

Government of India Central Printing Office.—No. 735 L. D.—30-3-99.—300.—E. R.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 23rd June, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir W. Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

WHIPPING BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill further to amend the Whipping Act, 1864. He said:—"As the law stands at present, any juvenile offender can be punished with whipping in place of any other punishment for any offence he may commit under the Indian Penal Code which is not punishable with death. There is no such provision, however, in respect of offences which are punishable under special or local laws, and the consequence is that a youthful offender, on conviction for an offence outside the Penal Code, has, sometimes, to be sent to jail when a whipping would be a far more suitable punishment. It is proposed to remedy this defect in the Whipping Act by rendering a juvenile offender who commits any offence which is punishable under any special or local law with imprisonment liable to the punishment of whipping in lieu of imprisonment or fine. A safeguard is, at the same time, provided by empowering the Governor General in Council to notify that certain offences, even though they fall within the category just mentioned, are exempted from

this liability. It is also proposed to amend the Whipping Act in two other respects—first, as regards juvenile offenders, to render them liable to the punishment of whipping for an attempt to commit an offence, as well as for the offence when actually committed; and, secondly, to add the offence of 'rioting armed with a deadly weapon' to the offences specified in section 2 of the Act which, whether committed by an adult or a juvenile offender, are punishable with whipping."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

MARRIAGES VALIDATION (PUDUKKOTTAI AND TRAVANCORE) BILL

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to validate certain marriages solemnized in the Native States of Pudukkottai and Travancore in India. He said:—"Your Lordship is aware that in cases where parties have been married in good faith, but, owing to some mistake in law or the omission of some necessary form, doubts may be cast on the validity of the marriage, it is usual for the Legislature to interfere and to put the validity of these marriages beyond doubt. The mistake which renders necessary the Bill which I now ask leave to introduce is of a very simple kind. The persons whose names and qualifications are set forth in the preamble to the Bill were duly licensed to solemnize marriage, or to grant certificates of marriage within the territories under the Government of Madras. They seemed to suppose that their authority extended to the Native States of Pudukkottai and Travancore, and a number of native Christians residing in these States have been married, and have had certificates granted to them accordingly. The Local Government has made careful enquiry into the facts, and there seems to be no reason to doubt the good faith of the parties. Under these circumstances, I ask leave to introduce a Bill giving validity to these marriages."

The motion was put and agreed to.

23RD JUNE, 1899.] [*Mr. Raleigh; Mr. Rivaz.*]

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India and in the Fort St. George Gazette

The motion was put and agreed to.

NORTHERN INDIA CANAL AND DRAINAGE (AMENDMENT) BILL.

The Hon'ble MR RIVAZ moved for leave to introduce a Bill further to amend the Northern India Canal and Drainage Act, 1873. He said:—

"Section 36 of the Northern India Canal Act provides that the rates to be charged for canal water supplied for purposes of irrigation to the occupiers of land shall be determined by rules to be made by the Local Government, and that such occupiers as accept the water shall pay for it accordingly. The section does not, however, as at present worded, enable the Local Government to determine what persons or classes of persons are to be deemed to be occupiers and to be liable for payment of the occupier's rate, and difficulties in this respect have been experienced both in the North-Western Provinces and in the Punjab The object of the present Bill is to remove these difficulties by amending section 36 so as to give the necessary power of determination to the Local Government.

"A consequential amendment of section 47 of the Act is also proposed, in order to enable the recovery of water rates to be made from sub-tenants by summary process in cases where this class of cultivator has been declared liable for their payment."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the North-Western Provinces and Oudh Government Gazette, the Punjab Government Gazette and the Central Provinces Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

INDIAN COMPANIES (BRANCH REGISTERS) BILL.

The Hon'ble MR. DAWKINS moved for leave to introduce a Bill to authorize certain Companies registered under the Indian Companies Act, 1882, to keep branch registers of their members in the United Kingdom. He said:—"The Bill which I ask leave to introduce originated with the mercantile community. Its object is to authorize certain companies registered under the Indian Companies Act to keep branch registers of their members in the United Kingdom. The first result, it is hoped, will be that it will enlarge the market for shares in Calcutta and in other parts of India. It is also hoped that it will facilitate the investment of English capital and English securities in this country, and if and when the stability of the rupee is assured, I think that we may look forward to the Bill affording very valuable assistance in that direction."

The Hon'ble MR. ALLAN ARTHUR said:—"At the last meeting of this Council, I pointed out that, if British capital were to be attracted to India, one of the first things to be done was to grant facilities to the investor in England, and suggested that legislation should be undertaken on the lines now proposed by the Hon'ble Financial Member.

"That a Bill, such as this is, should be introduced at the very next meeting of the Council seems to me to be clear evidence of the desire and intention of Your Excellency to do everything in your power to encourage the development of the resources of India by the introduction of British capital. I welcome this legislation as one of the means towards the desired end, and shall have much pleasure in supporting the Bill."

The motion was put and agreed to.

The Hon'ble MR. DAWKINS introduced the Bill.

The Hon'ble MR. DAWKINS moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

INDIAN REGISTRATION [AMENDMENT] BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill further to amend the Indian Registration Act, 1877. He said:—"Section 21 of the Registration Act provides that no non-testamentary document relating to immoveable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same; it is further provided that houses outside towns and lands shall be described, whenever it is practicable, by reference to a Government map or survey. By the next section, however, failure to comply with this provision does not disentitle a document to be registered if the description of the property is sufficient for its identification.

"The Madras Government having represented that in that Presidency, at all events, it was desirable to make it obligatory to specify the survey-number in all documents presented for registration which relate to land which has been surveyed, other Local Governments were consulted on the subject. The replies which have been received show that it is not possible to make a general rule for the whole of India to the effect proposed by the Madras Government; at the same time, the Government of India think that the matter is one which may, with advantage, be left to the discretion of the various Local Governments to be provided for by local rule wherever the circumstances warrant the proposed obligatory provision. The object of this Bill is, therefore, to amend section 22 of the Registration Act accordingly."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

LAND IMPROVEMENT LOANS [AMENDMENT] BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to amend the Land Improvement Loans Act, 1883. He said:—"The object of this Bill is merely to remove a defect in the language of section 6 of the Land Improvement

Loans Act. The law officers in Bengal have advised that, according to the present wording of this section, when the agreement is to advance a loan in instalments, no part of it is repayable till after the last instalment has been actually advanced, and therefore, if the borrower refuses to accept any of the later instalments, the right to recover that already advanced does not accrue. It is proposed to remedy this defect of language and to make it clear that, in such a case, the right of recovery commences from the date of the advance of the last instalment actually taken."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 14th July, 1899.

J. M. MACPHERSON,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 27th June, 1899.

G. C. Press, Simla.—No. 158 L. D.—27-6-99—328

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 14th July, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir W. Mackworth Young, K C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

MARRIAGES VALIDATION (PUDUKKOTTAI AND TRAVANCORE) BILL.

The Hon'ble MR. RALEIGH moved that the Bill to validate certain marriages solemnized in the Native States of Pudukkottai and Travancore in India be taken into consideration. He said :—" I explained, on asking leave to introduce this Bill, that it is intended to validate marriages contracted in good faith by Native Christians in those States, but which have been solemnized by persons who have not legal authority. "

The motion was put and agreed to.

The Hon'ble MR. RALEIGH moved that the Bill be passed.

The motion was put and agreed to.

NORTHERN INDIA CANAL AND DRAINAGE (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ moved that the Bill further to amend the Northern India Canal and Drainage Act, 1873, be taken into consideration. He

said:—" I explained, when I introduced this Bill at the last meeting of Council, that its object is merely to enable the Local Governments of the North-Western Provinces and the Punjab to determine what persons, or classes of persons, are to be deemed to be occupiers and to be liable for payment of the occupier's rate, that is, the charge which is made for canal water supplied for purposes of irrigation."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill be passed.

The motion was put and agreed to.

INDIAN REGISTRATION (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ moved that the Bill further to amend the Indian Registration Act, 1877, be taken into consideration. He said:—" This also is a very simple Bill. Its object is to give power to Local Governments to provide, by rule, that the provision in section 21 of the Registration Act, in respect of specifying the survey-number in documents presented for registration, which relate to land, may be made obligatory in certain cases."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill be passed.

The motion was put and agreed to.

LAND IMPROVEMENT LOANS (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ moved that the Bill to amend the Land Improvement Loans Act, 1883, be taken into consideration. He said:—" The object of this Bill is merely to remove a defect in the language of section 6 of the Land Improvement Loans Act."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill be passed.

The motion was put and agreed to.

[14TH JULY, 1899.] [*Mr. Raleigh.*]

CHURCH OF SCOTLAND KIRK SESSIONS BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to provide for the Incorporation of Kirk Sessions of the Church of Scotland in British India. He said:—" The proposal to incorporate the Kirk Sessions of the Church of Scotland in British India belongs to the Home Department, but my Hon'ble friend, Mr. Rivaz, has asked me to take charge of the Bill. I ought, perhaps, to explain that the Session of a Presbyterian church is the body of elders to whom the teaching and the oversight of the congregation are committed. The minister is in theory an elder, but he always acts as moderator or president of the Session, and the conduct of business is largely left to him and to those of the lay elders who fill the offices of Treasurer and Sessions Clerk. In Scotland the Kirk Sessions has never been incorporated, the reason, I take it, being this, that the endowment of the established Church there consists mainly of land ; all questions relating to endowments and property of the Church usually have to be settled between the minister and the heritors, that is, the owners of land in the parish. Also in Scotland the Session is only one of the Church Courts. There are the superior authorities of the Presbytery and General Assembly, whose powers are defined and recognized by the law. In British India the circumstances of a congregation belonging to the Church of Scotland are totally different. The congregations here are nominally under the Presbytery of Edinburgh ; but I need hardly say that they are widely separate, that they can have but little common organization, and that for almost all practical purposes they must be regarded as self-governing communities. Therefore, in meeting the request of the Church of Scotland that the Kirk Sessions here should be incorporated, we are only recognizing their self-governing character. I need not say anything at this stage of the particular provisions of the Bill. "

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English.

The motion was put and agreed to.

INDIAN REGISTRATION OF SHIPS BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to make better provision for the Registration of British Ships in British India. He said:—"Your Lordship is aware that there has been a good deal of correspondence between the Government of India and the Imperial Government in regard to the Merchant Shipping Act of 1894. According to the view taken by the authorities in England that Act was intended to be a code applying to the British Empire. One result of that view is that our legislative powers in regard to Merchant Shipping are in some points restricted, and that they must be exercised only within the limits prescribed for us by the Act. A general Merchant Shipping Act for British India, which was projected some years ago, has had to meet a good deal of criticism, and the difficulties are still too great to permit of the introduction of a general Act; but there are certain parts of the subject which we have power to deal with and which we ought to deal with. It is quite evident that such matters as the registering of British ships, or the measurement of native coasting-ships, are matters which should be provided for by this Legislature. A Bill for the registration of ships has accordingly been prepared, the provisions of which, we think, are within the limits laid down for us. The Bill might have been regarded as belonging to the Finance and Commerce Department, but my Hon'ble friend Mr. Dawkins wishes that I should take charge of it."

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

CURRENCY CONVERSION (ARMY ANNUAL) BILL.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved for leave to introduce a Bill to provide for the conversion into British Indian currency of sums expressed in British currency in the Army Act. He said:—"The questions connected with this Bill have been discussed by the Government of India

and Her Majesty's Government, and the subject has received much consideration. The Statement of Objects and Reasons is so full that a very short explanation will be needed from me. The British soldier receives his pay in India converted and calculated at the official rate of exchange of the year. It has been deemed reasonable, equitable and necessary that the sums which are mentioned in the Annual Army Act in the shape of recoveries to be made from the soldier should be translated, so to speak, into Indian money, and it has been decided that these recoveries of fines, etc., shall be made at the annual rate of exchange at which the soldier receives his pay. For this purpose, an annual Act will be passed. This Bill is only to provide for the unexpired portion of the present financial year up to the 31st March, 1900."

The motion was put and agreed to.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN introduced the Bill.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English.

The motion was put and agreed to.

TELEGRAPHIC PRESS MESSAGES BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to provide for the protection of certain telegraphic press messages. He said:—"The question of affording proper protection to newspaper telegrams received from abroad has been under the consideration of the Government of India, from time to time, during the past 27 years; and a Bill to amend the lawlof copyright in India which was prepared in 1885 contained a provision which proposed to protect foreign press telegrams for a period of 24 hours after publication. That Bill was, however, dropped; as it was considered expedient not to initiate legislation on the whole subject of copyright in this country until the law of copyright had been dealt with comprehensively by Parliament. The amendment of the general law of copyright in India is still suspended for the reasons I have mentioned, but the question of protecting foreign press telegrams has again been recently brought forward, and the Government of India think that a good case has been made out for dealing with this particular matter without further delay. Legislation on the subject has been undertaken of late in several important British colonies, and the present Bill is, to some extent, framed on the model of the most recent of these enactments—the Ceylon 'Telegram Copyright Ordinance, 1898'. The period of protection now proposed is 36 hours."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

TRANSFER OF PROPERTY BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to amend the Transfer of Property Act, 1882. He said:—"The Transfer of Property Act of 1882 was intended to provide a code of property law for those parts of British India to which it might be applied. In order to complete the somewhat ambitious plan on which the measure was drafted, the learned draftsman thought it necessary to insert a chapter—Chapter VIII—dealing with the difficult subject of actionable claims. The sections of that chapter are expressed in very wide and general terms, and I may say that their interpretation has given a good deal of trouble to the Judges. Some of them were so wide that they seemed to go beyond what the policy of the law requires and to make unnecessary differences between the law of England and the law of British India. The opinions of Local Governments and the authorities representing the legal profession have been taken in regard to the amendment of this chapter, and on the basis of the opinions and suggestions received, a re-draft of the whole chapter was prepared by my predecessor, Mr. Chalmers. That re-draft I now adopt, and I ask leave to introduce it as a Bill."

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 28th July, 1899.

J. M. MACPHERSON,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 18th July, 1899.

G. C. Press, Simla.—No. 205 L. D.—18-7-99.—328.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 28th July, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir W. Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

CURRENCY CONVERSION (ARMY ANNUAL) BILL.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill to provide for the conversion into British Indian currency of sums expressed in British currency in the Army Act be taken into consideration.

The motion was put and agreed to.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill be passed.

The motion was put and agreed to.

TELEGRAPHIC PRESS MESSAGES BILL.

The Hon'ble MR. RIVAZ moved that the Bill to provide for the protection of certain telegraphic press messages be referred to a Select Committee consisting of the Hon'ble Mr. Raleigh, the Hon'ble Mr. Dawkins and the mover, with instructions to report after one month.

The motion was put and agreed to.

PRISONERS BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to consolidate the law relating to Prisoners confined by order of a Court. He said:—"This Bill was described by my predecessor as a novelty in Indian legislation. It is a Bill of pure consolidation and makes no change in the substance of the law. In the Imperial Parliament, as Your Lordship is aware, Consolidation Bills are referred to a Joint Committee consisting, for the most part, of legal experts, and, if the Committee reports favourably, the Bill is passed by a sort of self-denying ordinance, the Government making no change in the substance of the law, and private members offering no amendments of substance. In India, I hope that no special rules may be necessary in order to pass a Bill of this character. Apart, altogether, from any changes we may desire to make in the substance of the law, there can be no doubt at all that consolidation will be useful as bringing together the enactments scattered through a number of statutes and thereby saving time and trouble to those who have to administer the law. The draft Bill as it came to me contained one or two trifling alterations, but those alterations, though they were improvements, have been struck out in order that I might introduce this Bill as a Consolidation Bill; and if it is the first I hope it may not be the last that I shall be in charge of."

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

CENTRAL PROVINCES COURT OF WARDS BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to consolidate and amend the law relating to the Court of Wards in the Central Provinces. He said:—"The Act which at present regulates the superintendence of the person and property of Government Wards in the Central Provinces was framed in 1885. Since then, the whole question of Court of Wards' management has been thoroughly considered by the Government of India in consultation with Local Governments, and the law on the subject is at present being amended and

improved in most Provinces by the local legislatures. In the Central Provinces also, the present law needs improvement and consolidation, in order to make it more clear, precise and effective. The principal amendments embodied in the Bill which I am asking leave to introduce are that the Commissioner of the Division will in future be the Court of Wards in place of the Deputy Commissioner of the District; the Local Government will have power to declare persons to be incapable of managing their property on account of mental as well as physical defects or infirmities; it will also be able, on the application of a proprietor, to place his property under the superintendence of the Court of Wards, when it is thought expedient in the public interest to do so; provision is made for the early ascertainment of the liabilities of wards' properties and the prompt adjudication of claims against them; also for preventing a ward from creating any fresh encumbrances on his estate while it is under the management of the Court of Wards; and, lastly, the Court of Wards will have the power to retain charge of an estate, with the sanction of the Local Government, until all debts and liabilities are discharged, when a ward dies or ceases to be disqualified, if his property is still encumbered at such time. The reasons for these various amendments in the present law are given in the Statement of Objects and Reasons which is appended to the Bill, and I need not take up the time of the Council by repeating them."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Central Provinces Gazette in English and in such other languages as the Local Administration thinks fit.

The motion was put and agreed to.

PUNJAB COURTS BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill further to amend the Punjab Courts Act, 1884. He said:—"The law of the Punjab in regard to appeals from appellate decrees in civil suits differs from the provisions of the Civil Procedure Code on this subject in the following respects. Under the Code no second appeal lies in any suit of the nature cognizable in a Court of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed 500 rupees; but in all other suits, a second appeal lies to the High Court on the ground that the decision

appealed against is contrary to some specified law or usage having the force of law, or that it has failed to determine some material issue of law or usage having the force of law, or that there has been some substantial error or defect in the prescribed procedure, which may possibly have produced error or defect in the decision of the case upon the merits. In the Punjab, the law since 1888 has been as follows. All civil suits are classified under three heads, namely, (1) small causes, (2) land suits and (3) unclassed suits,—this last head including all suits which are neither small causes nor land suits. A second, or, as it is termed in the Punjab Courts Act, a further, appeal is allowed to the Chief Court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, in the following cases, namely, (1) if the value of the suit is 1,000 rupees or upwards, or the decree involves directly some claim to, or question respecting, property of like value; or (2) in a land suit where the decree of the appellate Court varies or reverses, otherwise than as to costs, the decree of the Court below; or (3) if on the application of any party, except in small causes of less value than 1,000 rupees or in unclassed suits of the value of 100 rupees or under, the Judge of the appellate Court certifies that there is a question of law or custom involved, and that the case is, in his opinion, of sufficient importance to justify a further appeal.

"Experience has shown that this present law of further appeal in the Punjab is undesirably wide, especially as regards the facilities it affords for protracted litigation in petty land suits; that a great deal of the time of the Chief Court is taken up in dealing with comparatively trifling and unimportant cases; and that, consequently, under the present circumstances, the Punjab requires a Chief Court of six Judges, which is the same strength as that of the High Court of the North-Western Provinces, whose jurisdiction extends over a population half as large again as that of the Punjab. Both in the interests of the people and on the ground of reasonable economy, the Government of India think it very necessary to curtail the present facilities of appeal in the Punjab, to reduce the present number of the Chief Court Judges to a strength appropriate to the circumstances of a poor and comparatively small province like the Punjab, and to enable the Court, by relieving it of its present burden of petty appellate business, to devote a proper amount of time to the important duty of supervision of the work of the lower Courts. The measures for attaining these objects, which are embodied in the Bill which I am introducing, have been framed after careful deliberation and consultation with the Punjab Government and the Chief Court, and they are, for the most part, based on a scheme submitted by the Lieutenant-Governor and approved by the Judges. It is proposed to maintain the present system of second appeal in its main principles, that is, when such an appeal is allowed at all, to allow it on

the whole case and not only on questions of law or custom, but the money limit, subject to which further appeals are allowed, is being raised for each class of suit, and a broad distinction is made between cases in which there are two concurrent decisions and those in which the decree of the first Court is varied or reversed by the appellate Court. It is proposed to allow a further appeal in small causes only when the value is of 1,000 rupees or upwards in the case of two conflicting decisions and in no case when there are two concurrent decisions; in land suits, only when the value is of 250 rupees or upwards in the case of two conflicting, and of 1,000 rupees or upwards in the case of two concurrent, decisions; and in unclassed suits, only when the value is of 1,000 rupees or upwards in the case of two conflicting decisions, and of 2,500 rupees or upwards when they are concurrent.

"At the same time, it is proposed to abolish the present system of certificate appeal on questions of law or custom, as being unsuitable to the circumstances of the Punjab, and in its stead to enlarge the revision powers of the Chief Court. These powers are at present more restricted than those conferred by section 622 of the Civil Procedure Code upon High Courts. A High Court can interfere on the revision side when a lower Court acts, in the exercise of its jurisdiction, illegally or with material irregularity; but in the application of section 622 to the Punjab, the words "illegally or" have been omitted. It is proposed to extend the present revisional power of the Chief Court to non-appealable cases in which a question of law or custom and of general interest is involved, on application being made within 30 days from the date of the order in respect of which the application is made."

His Honour THE LIEUTENANT-GOVERNOR said:—"Not having had yet an opportunity of studying the provisions of the Bill, I am unable, at the present time, to enter into details, but I think it is proper that I should state at this stage that I am in entire concurrence with the views of my Hon'ble friend in the matter of this Bill. A great deal of correspondence has taken place in connection with it, and as the Hon'ble Mr. Rivaz says, and so far as I can judge from the account which he has given of the Bill, it is framed mainly upon the recommendations of the Local Government which, however, were undoubtedly called for by the remarks of the Government of India in connection with the administration of the Courts of Criminal and Civil Justice in the Province. The measure may be said to be one very largely in the interests of economy, and it may be a question whether the state of litigation in the Punjab is such as to require such a large Bench as the present Chief Court of the Punjab. I think that probably in regard to this matter there will be something to be said in the course of the discussions that

will ensue on this Bill. The conditions of litigation in the Punjab are very different from those prevailing in other Provinces with which the Punjab is very often compared, and I think that in all probability it would be possible to justify the past action of the Local Government when, from time to time, it has asked for extra Judges to sit on the Bench of the Chief Court. However, I think that all are agreed that the time has come when, without sacrificing unduly the interests of justice, it is possible to make some economies, and the present Bill is largely aimed at doing this. The provisions of the Bill as explained by the Hon'ble Member have, as I have said, my concurrence."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 25th August, 1899.

J. M. MACPHERSON,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 1st August, 1899.

G. C. Press, Simla.—No. 246 L. D.—1-8-99.—320.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 25th August, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding.*

His Honour Sir W. Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Rai Bahadur Protul Chandar Chatterjee.

NEW MEMBER.

The Hon'ble RAI BAHADUR PROTUL CHANDAR CHATTERJEE took his seat as an Additional Member of Council.

CENTRAL PROVINCES COURT OF WARDS BILL.

The Hon'ble MR. RIVAZ moved that the Bill to consolidate and amend the law relating to the Court of Wards in the Central Provinces be referred to a Select Committee consisting of the Hon'ble Mr. Raleigh, the Hon'ble Mr. Chitnavis and the mover, with instructions to report after one month.

The motion was put and agreed to.

PUNJAB COURTS BILL.

The Hon'ble MR. RIVAZ moved that the Bill further to amend the Punjab Courts Act, 1884, be referred to a Select Committee consisting of the Hon'ble

Mr. Raleigh, the Hon'ble Rai Bahadur Pandit Suraj Kaul, the Hon'ble Rai Bahadur P. C. Chatterjee and the mover, with instructions to report after one month.

The motion was put and agreed to.

PRESIDENCY BANKS BILL.

The Hon'ble MR. DAWKINS moved for leave to introduce a Bill further to amend the Presidency Banks Act, 1876. He said:—"I think I need add nothing to what is explained in the Statement of Objects and Reasons. As is well known, strict limitations, which perhaps to some extent have survived the times and conditions which rendered them necessary, are placed upon the business which the Presidency Banks are authorized to transact. For instance, as regards Railways and Companies, the Presidency Banks are limited by section 36, sub-section 3, to dealing in the securities of such Railways or other Companies, the interest whereon shall have been guaranteed by the Secretary of State in Council. As regards Municipalities, the Banks are authorized to deal in securities issued by Municipal bodies under the authority of the Legislature. In 1879 there was added to the sub-section authorizing the Bank to deal in Municipal securities the permission to deal in any securities that might be issued by the Commissioners for making improvements in any Port or by the Trustees of any Port. We now propose to add securities which may be issued by the Commissioners for the improvement of the City of Bombay. This addition involves no innovation or change of principle in the Act, for, from one point of view, the securities may be regarded as Municipal securities, while, as they are guaranteed by the Government of India, they also stand in the category of securities of Companies and Railways which are guaranteed by the Government of India. I therefore beg leave to introduce a Bill with this object".

The motion was put and agreed to.

The Hon'ble MR. DAWKINS introduced the Bill.

The Hon'ble MR. DAWKINS moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the Fort St. George Gazette, the Bombay Government Gazette and the Calcutta Gazette in English.

The motion was put and agreed to.

1899.] [*Mr. Rivaz; Mr. Chitnavis; Mr. Rivaz.*]

CENTRAL PROVINCES TENANCY (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to amend the Central Provinces Tenancy Act, 1898. He said :—" The object of this Bill is to correct a mistake of drafting in the Central Provinces Tenancy Act which was passed last October. Section 45 of that Act has imposed considerable restrictions on transfers of proprietary rights in sír lands, but it was not intended to give retrospective effect to these provisions in respect of past *bonâ fide* transactions, and a saving clause to this purport was inserted. A representation has, however, been received from the Central Provinces, and has been accepted as correct, that this clause, as at present worded, does not completely fulfil its purpose. It is proposed therefore to re-enact the provision in question in clearer terms "

The Hon'ble MR. CHITNAVIS said :—" I cannot but express my gratitude on behalf of the people for the sense of justice which has impelled Government to introduce the amendment now proposed to be moved. I am partly responsible for the mistake that has crept in. When I supported the amendment moved by Mr. Fuller last year, I thought that the amendment was reasonably conceived in the interests of debtors and that the wording would not take away the force of the promise so generously and justly made by Sir John Woodburn in Council to the effect that retrospective effect would not be given to the provisions of the Tenancy Bill then under discussion. I was, however, subsequently informed by my lawyer friends that the amendment moved by Mr. Fuller would have the effect of annulling the promise made, and it was pointed out to me that it would prejudicially affect 90 per cent. of the old documents and the sufferers would in the main be persons who were ignorant of law and who must have had advanced money in good faith probably in many instances to relieve, in times of famine, families of agriculturists in distress. The matter was thus represented to the Chief Commissioner, who was good enough to move the Legislature to introduce an amendment as now proposed, especially with a view to respect the promise made on behalf of Government and to avoid a sense of insecurity among the people, giving them clearly to understand that anything done on the faith of the old law would not be lightly interfered with. It is well known what great help agriculturists received from their brethren during the last famine under this sense of security and this amendment, which is sure to strengthen the belief that Government is prepared to support all advances legitimately and reasonably made, will go a long way towards enabling people to come forward and help people in future on similar occasions of famine and distress which, in case this present state of weather continues, unfortunately for my Province, seem to be near at hand ".

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Central Provinces Gazette in English and in such other languages as the Local Administration thinks fit.

The motion was put and agreed to.

INDIAN COINAGE AND PAPER CURRENCY BILL.

The Hon'ble MR. DAWKINS said :—" My Lord, I beg to ask permission to postpone the motion for leave to introduce a Bill further to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882. The Bill is intended, I may say very shortly, to give effect to the recommendations contained in the report of the Indian Currency Committee, which have been endorsed by the Secretary of State and are generally accepted by the Government of India. Those recommendations include making the sovereign legal tender in India at the rate of Rs. 15 to one sovereign, and will provide for the coinage of gold in India. Any further observations and explanations in connection with this Bill, I think, may be, with propriety, postponed until the Bill itself is circulated and is in the hands of Hon'ble Members. It is with regard to the provision for coining gold in India that delay has now arisen, owing to purely technical considerations. Before the sovereign can be coined in India it is necessary that a Proclamation should be issued under the English Coinage Act of 1870 constituting an Indian Mint a branch of the Royal Mint for the purpose of coining sovereigns, as has been done in the case of the Australian Mints. We have been advised by the Secretary of State that the terms of the Proclamation are being settled in London, and, indeed, we were led to expect that we might have received the draft Proclamation by telegram before this date. In this, however, we have been disappointed, and we do not think it expedient to proceed without the Proclamation by now introducing legislation, because, although we know what the main lines of the Proclamation are, yet, until we actually see the draft, we might, if we legislate without the actual Proclamation before us, fall into some discrepancy with its language, which would involve fresh and ulterior amendments. Therefore, on account of this purely technical reason, which does not in any way modify the decision of the Government of India to give the most expeditious effect possible to the recommendations of the Currency Committee, I ask permission to postpone the motion for leave to introduce the Bill".

Leave was granted.

The Council adjourned to Friday, the 1st September, 1899.

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 25th August, 1899.

G. C. Press, Simla.—No. 332 L. D.—31-8 99.—320.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 1st September, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Rai Bahadur Protul Chandar Chatterjee.

PRESIDENCY BANKS BILL.

The Hon'ble MR. DAWKINS moved that the Bill further to amend the Presidency Banks Act, 1876, be taken into consideration. He said:—"Last Friday, when asking leave to introduce this Bill, I reminded Council that strict limitations were imposed by the legislature on the business in which the Presidency Banks are authorized to deal, and I added that these limitations, to some extent, appeared to have survived the times and conditions which had rendered them necessary. With the permission of Your Excellency, I would like to amplify the opinion which I then expressed incidentally. Upon its becoming known that we intended to introduce the purely formal amendment now before us, we were informed, through the Comptroller General, that the Bank of Bengal desired us to reconsider, in connection with this amendment, the refusal of Lord Elgin's Government to add the securities of assisted branch lines to the securities of Railways guaranteed by Government in which alone the Presidency Banks may deal. We also received a telegram from the Madras Chamber of Commerce, asking us to introduce further legislation to empower the Presidency

Banks to deal in the securities issued by District Boards with the authority of Government. The Presidency Bank of Madras and the Madras Government support the proposal.

"We have come to the conclusion, a conclusion which, I think, must commend itself to every reasonable man, that we could not tack on, in a hurry, legislation involving questions of principle to a purely formal amendment. Nor could we defer passing this formal amendment and give time for the mature consideration of these larger issues, as this amendment is urgent, its object being to enable the Presidency Bank of Bombay to deal in the securities of the loan already issued by the Bombay Improvement Trust.

"At the same time we do not wish to return a simple non-possumus to the requests of the Bengal Bank and of the Madras Chamber of Commerce or, what is perhaps more disheartening, to postpone their consideration indefinitely. In the opinion of Government the time has come for reviewing the question of these restrictions on the Bank's operation, as there is ground for thinking that they may, to some extent, have survived the reasons for their imposition, and do unnecessarily hamper business and enterprise.

"The origin of these restrictions is, I think, generally known, but perhaps I may be allowed to refer to it. Formerly, as Hon'ble Members are aware, Government had a pecuniary interest in the Presidency Banks and was largely concerned in, and responsible for, their management. In 1872, after the failure of the old Bank of Bombay, it was decided that Government should divest itself of its interest in the Banks, and withdraw from active participation in their management. Protracted discussion took place for several years; and I find among the proceedings that a proposal was made, but not pressed, to allow the Presidency Banks the freedom and discretion of ordinary Banks in dealing in shares and stock. It was natural that the proposal was not pressed, for the failure, involving Government in considerable loss, of the old Bombay Bank, which for some reason had been freed from the restrictions imposed upon the other Presidency Banks, was primarily attributed by the Commission of Inquiry to speculative dealings encouraged by the absence of such restrictions. It was therefore felt that the business of the Presidency Banks must still be subjected to strict limitations in view of a variety of circumstances and principally, of course, with the object of securing the safety of the Government balances entrusted to the Presidency Banks by special arrangement. Much has happened since 1876: new banks have grown up; new forms of enterprise have been started—but the principal factor remains constant: the Presidency Banks are still the custodians

of the Government balances—and I do not think that any Bank in India, which receives custody of the Government balances, can expect to be without restrictions on the class of business in which it may engage these public balances. Two considerations must be borne in mind. The Presidency Banks depend to a quite exceptional degree for their cash balances on the Government account. As Sir J. Westland showed, in the busy season nearly 80 to 90 per cent. of these balances are supplied from the Government account: a fact which, added to the fluctuations in the rate of discount, may make us ask seriously how far the Presidency Banks have sufficient capital to allow of the absorption of the resources they command in enterprises, the securities of which might not be easily realizable.

"Again, the circumstances of India are peculiar. In England, if the Government were suddenly in need of money and the Bank of England had locked up the Government balances, it would not be of serious consequence. Money could be procured from a dozen other different quarters In India, this would not be possible; and, indeed, we have a historic example in the embarrassment, which the inability or reluctance of the Banks to produce the money deposited with them, brought upon Government when confronted with the sudden emergency of the Orissa Faimne.

"I have thought it necessary to trouble Council with this retrospect and explanation, because we shall have to keep this central and vital consideration in view when we proceed to consider how far existing restrictions can be relaxed. But having uttered this word of caution, I may express my opinion that some relaxation is desirable; and I may state that Government is prepared and has decided to examine the whole question exhaustively, and in no narrow spirit.

"There is, I think, no doubt that, as regards railways, the limitation of the Bank's operations to the securities of guaranteed Railways is a serious impediment to the promotion of those assisted railways which the Government has so often expressed a desire to encourage. I may say that this is the conviction of my Honourable Colleague, Colonel Gardiner, whose great practical experience and knowledge lends much weight to his views, and I congratulate Council that my Honourable Colleague will be able to take part in the consideration of this question. He knows where the shoe pinches, and his familiarity with every branch of railway organization and with railway finance, will supply Government with valuable suggestions.

"To what precise extent we shall be able to authorize the Presidency Banks to deal in the securities of the various classes of assisted railways, I shall not of

course be expected to indicate at this moment. But, looking to the total capital of such branches and to the terms under which some of them are constructed, I do not think it will be impossible to devise such safeguards as would permit us to relax the prohibitions now placed upon the Presidency Banks in regard to dealing in some of their securities.

"I now pass to the question raised by Madras, that of authorizing the Presidency Banks to deal in the securities issued by District Boards, although this question, I may say, is not unconnected with that of railway development, in so far as District Boards may, as in the case of the Tanjore Board, themselves guarantee railways, etc., etc.

"I think we may admit that this is a question presenting less difficulty. District Boards and Municipalities, in the securities of which latter the Presidency Banks may deal, are equally considered as local authorities under the Local Authorities Loans Act of 1879, and require the same sanction from the Local Governments for their loan operations. The Municipalities and Port Trusts of the three Presidency Towns and Bombay City Improvement Trust alone stand on a different footing, as in the case of their operations the sanction of the Government of India, in addition to that of the Local Government, is required. But we thought the whole question of enlarging the area of securities in which the Presidency Banks may deal, might well be considered before further legislation was undertaken. No prejudice to the District Boards is likely to arise from the delay. The request from Madras has not been previously pressed upon Government, and there is no urgency, for, as a matter of fact, the District Boards almost invariably prefer to borrow from Government to borrowing in the open market, as they can get better terms from Government. Up to the present moment only two District Boards have raised money in the open market."

His Excellency THE PRESIDENT said:—"I should like to add a few words upon the subject touched upon by the Hon'ble Mr. Dawkins in the remarks to which we have just listened. The speech which he has made represents the views that are unanimously entertained by the Government of India. The question that has been raised by him is one, in my opinion, of great importance, and one upon which I should be grateful for the enlightenment and backing of public opinion. The Bill now before us, as he has told us, is one for a more or less formal amendment of the Presidency Banks Act of 1876, so as to admit to the list of securities, with which the Banks are at present permitted to deal, a particular security which has only hitherto been excluded, because, when the Act was last re-enacted, the Bombay City Improvement Trust had not yet been called

into existence. The proposal, however, adumbrated by the Finance Member, contemplates a still further extension of these securities in the future by including in them the scrip of subsidiary assisted railway companies.

"Now, under the existing law, the Presidency Banks are prohibited from dealing in them. We are disposed, as my Hon'ble Colleague has pointed out, to relax those restrictions, in the first place, in the interest of the Banks, so as to increase the scope of their operations, but, secondly, and still more, in the interest of the investing public, and of the general development of the country which we all have so much at heart. But here I must interpolate a word of caution. We are anxious to be generous; but we are bound to be prudent, and there is a certain point beyond which we cannot go.

"The Presidency Banks, as the Hon'ble Mr. Dawkins has pointed out, are not like ordinary Banks. No relaxation of restrictions, even if such were possible in an extreme degree, could make them so. They differ, because the bulk of their cash balances—or what I suppose I may call their loanable capital—is supplied by Government, and because, if we subtract this at any given moment, they are not, as a rule, in possession of sufficient independent capital to enable them to conduct operations on a large scale. The Government, therefore, is under a peculiar responsibility for these Banks, and we are bound to enforce special regulations for the protection and the security of the balances which we ourselves have provided. We cannot afford to jeopardize them in the interests of general philanthropy. Within these limits we desire to do all in our power to free the Banks from artificial bandages, and to give to them ample liberty of movement. But herein I should like to point out that a reciprocal obligation, in my judgment, is involved. We do not contemplate these steps merely in order to provide a new field for the employment of Government balances. What we want to do is to enlarge the opportunities available for the employment, in enterprises indigenous and beneficial to the country, of capital, both English and Native. It will be for the latter to profit by the occasion. The Government cannot do more than open the door. It will then be for the investing public to walk in.

"And here I am tempted to indulge in a further reflection. An examination of the existing system leads me to doubt whether the banking institutions of India are at all adequate to the growing needs of the country. This is a conviction that is gaining ground outside of India, and that I believe already exists in India itself. You will find substantial testimony to it in the speech delivered by the Secretary of State in the House of Commons in the Budget Debate three

weeks ago, and you will notice that his sentiments on the subject were re-echoed by his predecessor, Sir Henry Fowler. Here we are at the end of the nineteenth century, with 22,500 miles of railway opened in this country; with the telegraph wires connecting all our important cities and centres; with business operations being conducted every year on a larger and increasing scale. Moreover, we are looking forward, if we can settle our Currency difficulties, to a considerable expansion of financial and industrial enterprise. And yet, in respect of banking, it seems to me that we are behind the times. We are like some old-fashioned sailing ship, divided by solid wooden bulkheads into separate and cumbrous compartments. This is a state of affairs which it appears to me can hardly continue. I can well believe that local interests will require to be consulted, and we must be careful to see that no injustice is done. But I cannot think that any sectional prepossessions should be allowed to stand in the way of a consolidation and concentration of banking facilities which strike me as being required in the interests of the business accommodation and credit of the country. Should we succeed in effecting any such amalgamation—should we get any such Central Bank, established on a sterling basis, giving us access to the London market—then I think we might with safety dispense with many of the existing restrictions, because we should have, on the hypothesis of a common Currency with England, a permanent and stable link between the Indian and English markets. This is a question worthy of serious examination, and which I submit, with these few introductory remarks, to the consideration of the financial and mercantile public."

The motion was put and agreed to.

The Hon'ble MR. DAWKINS moved that the Bill be passed.

The motion was put and agreed to.

CENTRAL PROVINCES TENANCY (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ said:—"My Lord, when I introduced last week the Bill to amend the Central Provinces Tenancy Act of 1898, I explained that its object was merely to correct a mistake of drafting in one of the sub-sections of section 45 of that Act. That sub-section was intended to save past *bonâ fide* transactions from the provisions of that section. Accordingly, a new sub-section, in substitution, was drafted by the Legislative Department after very careful consideration, and was accepted by the Chief Commissioner of the Central Provinces. My Hon'ble friend, Mr. Chitnavis, has, however, shown me

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a telegram which I understand he received only last night from some lawyer friends of his in Nagpur. This telegram contains one or two criticisms upon the present wording of the sub-section. I believe my Hon'ble friend wishes these criticisms to be considered by the Legislative Department, and I see no objection to it. There is no immediate urgency for the passing of this Bill, and, with Your Excellency's permission, I would now move that its consideration be postponed till the next meeting of the Council."

The Hon'ble MR. CHITNAVIS said:—"I need not say that I am much thankful for the adjournment that has now been proposed. I am sure the amendment as telegraphed to me only last night has been worded, by local lawyers who knew the circumstances and the state of the law in the Province, with a view to meet the declared intentions of Government, and the postponement of the passing of the Bill that has now been moved will enable the Legislature to consider the amendment now proposed and to remove for all time to come all the uncertainties that may arise in future in connection with the interpretation of the section which is now being amended."

HIS Excellency THE PRESIDENT said:—"I do not think any objection will be entertained in any quarter to Mr. Rivaz's suggestion that, with a view to considering the further criticisms that have been put before us, our consideration of the Bill should be postponed till next meeting."

The motion was put and agreed to.

The Council adjourned to Friday, the 8th September, 1899.

J. M. MACPHERSON,

Secretary to the Government of India,
Legislative Department.

SIMLA;
The 6th September, 1899.

G. C. Press, Simla.—No. 350 L. D.—6-9-99.—320.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 8th September, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir W. Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Rai Bahadur Protul Chandar Chatterjee.

TELEGRAPHIC PRESS MESSAGES BILL.

The Hon'ble MR. RIVAZ asked for leave to postpone the presentation of the Report of the Select Committee on the Bill to provide for the protection of certain telegraphic press messages. He said :—" I beg leave of Your Excellency to make a short statement on behalf of the Select Committee which was appointed to consider this Bill. We wish to express our entire approval of the general principle of the Bill in question, and we have noticed that since its introduction the Special Committee of the House of Lords which has been dealing with the English Copyright Bill has proposed a protection of eighteen hours for newspaper intelligence received from foreign countries. At the same time, we have seen that our Bill has evoked a considerable amount of comment, and, in some cases, adverse criticism in the English and Vernacular Press of this country and in other quarters. We think that, in these circumstances, it is desirable to defer further consideration of the details of the Bill until Your

Excellency's Council meets in Calcutta, and I beg, therefore, to ask for leave to postpone the presentation of the Report of our Committee."

His Excellency THE PRESIDENT said:—"I will only add, with reference to what my Hon'ble friend, Mr. Rivaz, has just said, that I entirely agree with him in thinking that, for the reasons which he has explained, this Bill falls into the category of those which would be more properly discussed when we are in session in Calcutta than when we are in Simla."

Leave was granted.

CENTRAL PROVINCES TENANCY (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ moved that the Bill to amend the Central Provinces Tenancy Act, 1898, be taken into consideration. He said:—"I obtained leave, at the last meeting of the Council, to postpone the consideration of this Bill, because the Hon'ble Mr. Chitnavis had received certain criticisms on the wording of the clause in question, which he requested might be taken into consideration. These criticisms have been duly considered by the Hon'ble Legal Member and myself, and we think that the Bill as introduced needs no alteration."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill be passed.

The motion was put and agreed to.

INDIAN COINAGE AND PAPER CURRENCY BILL.

The Hon'ble MR. DAWKINS moved for leave to introduce a Bill further to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882. He said:—"On the 25th of August I asked permission to postpone the motion for leave to introduce a Bill further to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882. The object was to await the terms of a Proclamation, necessary under the English Coinage Act of 1870, for constituting an Indian Mint a branch of the Royal Mint. We had previously been led, as I then stated, to expect that this Proclamation would be communicated to us very shortly. But we have now been advised that there may be some further delay over the Proclamation owing to legal and technical questions.

8TH SEPTEMBER, 1899.] [*Mr. Dawkins.*]

"We have, therefore, had to decide whether we would proceed at once with legislation to make the sovereign legal tender in India, or whether we should delay still longer, pending receipt of the Proclamation. There are certain obvious objections to splitting our currency legislation into two; but they are not very serious. The measure of transcendent importance before us is to place the currency of India on a gold basis, and to endow India with a gold currency and a stable exchange. To provide for the actual striking of gold coins at an Indian Mint is really a corollary, and no practical inconvenience will arise from a short delay. We could not proceed to strike coins until we receive the necessary machinery that has been ordered from England, and, meanwhile, we shall continue to receive gold bullion at our Mints under the executive notification in force.

"The question of delaying legislation to make gold legal tender, and thereby to place our currency on an effective gold basis, is very different.

"Into the arguments for a gold standard and a gold currency, I think no one will expect me to enter. *Res judicata est.* The arguments for and against have been exhausted, and Government is proceeding in the conviction that no other measure would save India from disastrous embarrassment and repeated additions to the burden of taxation, and that no other measure is equally calculated to assist in the development of Indian resources and gradually to benefit the patient industry of the Indian people.

"There is one minor but important point, however, which, I think, I ought not to pass by.

"I am aware that the opinion has been expressed in certain quarters that it would be prudent to pause awhile before carrying our policy to a conclusion, before making the sovereign legal tender in India. It is urged that, when gold is legal tender, sovereigns will pass into circulation, that certain of them will disappear into hoards; that, therefore, the process of accumulating gold in the Government Reserve will be to some extent impeded, and that Government will less expeditiously accumulate a reserve from which to make gold available for foreign remittances when, and if, exchange tends to decline. It is, indeed, this apprehension that gold will not be sufficiently available for foreign remittance that chiefly inspires the plea for delay.

"We have given full weight to this consideration, but we cannot think that it would justify us in incurring delay and in engendering the suspicion that the Government of India has misgivings and hesitates to give immediate effect to a measure recommended by the Currency Committee, endorsed by Her Majesty's

Government, adopted by the Secretary of State, and accepted by the Government of India as the crown and completion, indeed, of its own policy, deliberately pursued now for six years.

"No doubt, sovereigns will pass into circulation. This is not to be deprecated, though, in view of the nature of transactions in India, we believe that gold coins will never penetrate far into the country or constitute more than a marginal currency. Probably, some sovereigns will pass into hoards; but the number that will disappear is not likely to be appreciable. Gold may also be retained by the Banks to some extent, and for that reason also not reach the Government. But gold, so retained, will be available for foreign remittance and will *pro tanto* diminish resort for that purpose to Government. And, whenever exchange rises above one shilling and four pence, which it may be expected to do every busy season, sovereigns will be presented to Government by their holders for the profit to be made on them. There is indeed every expectation that they will be largely brought to us, even when exchange does not rise above one and four pence, because, for some time to come, at any rate, gold will be principally used to obtain that money in which the mass of Indian transactions must be discharged and with which the people are familiar. Moreover, as regards the future of exchange, the rise to above one and four pence is not likely to be confined to the busy season.

"Looking to the increasing contraction of the rupee currency under a system of Mints closed to silver, to the growing output of gold in the world, to the apparent decrease in the purchasing power of gold, and the consequent rise in the gold value of the rupee, I do not think that it is rash to look forward to the rupee gradually becoming fixed at the high, not the low, level of exchange rendered possible under the new conditions.

"I contend, therefore, that there is no valid reason for deferring legislation for some indefinite period, because the gold that now flows into our treasuries may be, to some extent, arrested in, or deflected from, its channel. It is time to terminate the unrest and uncertainty which has hung over India in a heavy cloud for nearly a quarter of a century. It is time to terminate it finally, and to lay down a policy which will be distinguished by finality. We must show that we are confident in our policy, or else how can we expect confidence in others? We believe that the success of that policy will be assured by the ordinary operations of trade. If there should be any temporary check in its success, which we do not anticipate, we have been assured by the Secretary of State that it will be supported by all the means in the power of Government. But no check, I repeat, is anticipated. The policy to which we now propose to give effect is not only the most simple and economical but the most certain that can be devised.

1899.] [*Mr. Dawkins.*]

"I might conclude these remarks here, but, perhaps, it may not be amiss to dwell on some of the principal features of the new system we are now creating. Gold at the ratio of Rupees 15 for one sovereign will be legal tender, that is to say, gold coins of full weight coined at the English or Australian Mints, to which we propose before long to add gold coins struck at an Indian Mint.

"Anybody will have the right to discharge obligations of all kinds in gold, and the Government will continue to give rupees in exchange for gold under executive notification.

"We accept no obligation to give gold for rupees which would entail, if we accepted it, the acquisition by borrowing of an immense and indefinite sum. But Government will keep before its eyes the attainment of practical convertibility at the earliest possible moment, of practical as against legal convertibility such as exists in France. Gold, as every traveller knows, circulates under this system readily in France and can be obtained for ordinary purposes without difficulty. Indeed, it requires an effort of the imagination to realize that from the beginning of the century down to 1850 there was no gold in general circulation in France, and that the full and ample convertibility now existing in that country has been of gradual growth.

"Silver will be left as unlimited legal tender by the side of gold. It would be unnecessary, and it would be misunderstood by the masses of the population, if we placed a legal tender limit on these coins in which the great proportion of transactions are carried on. And we have no desire to do anything hostile to silver. Essential as it was to close the Mints to the free coinage of silver, yet that measure necessarily exerted a depressing effect upon silver, and we would avoid any semblance of hostility to that metal in which the Indian people so largely invest their savings.

"Except, therefore, for fractional purposes, and for replacing coins no longer current, and possibly also for replacing coins of Native States, if they so desire, silver will cease to be coined until such time in the future as it may be necessary to augment the rupee currency by coining.

"In the meantime the rupee currency will expand automatically in response to the demands of trade, as anybody wishing for rupees can obtain them from Government by the tender of a sovereign. In this way, gold will impart an element of elasticity to the total currency, and whatever stringency of loanable capital may arise in the future, no stringency of currency can occur."

His Excellency THE PRESIDENT said:—" The situation in which we are placed to-day, and the circumstances in which the Finance Member has just spoken in introducing this Bill, are not without an element of surprise. If any one had prophesied two years ago, or even one year ago, that, in response to the unanimous finding of a composite but singularly competent body of experts at home, in accordance with the recommendations of the Secretary of State, and, so far as I can judge, with the almost unbroken concurrence of public opinion, both in India and England, the Government of India would to-day be introducing a Bill to establish a gold standard with a gold currency in this country, he would have been laughed at as a dreamer of dreams. The bimetallists would have scouted him as a bigoted doctrinaire, and the champions of free silver would, possibly, have denounced him as a traitor. Even when the Committee was launched and was already fairly under way, I venture to think that the likelihood of a unanimous report exceeded the expectations even of the most sanguine. Indeed, I remember the charge being brought against the Committee that so evenly had the rival interests been balanced, and of such a motley of opinions was it composed, that its deliberations could have no other result than to add to the already existing confusion, and once again to throw the future of Indian currency into the crucible. We have been saved from any such catastrophe by the sagacity and common sense which characterized the proceedings of the Committee, by the ability with which its counsels were guided by its Chairman; but most of all, I think, by the convincing and overwhelming strength of the case for a gold standard which was submitted to its consideration. Hence it is that we have arrived at the remarkable result of a consensus of opinion upon a matter hitherto so fiercely disputed, and that we are engaged this morning in giving to it legislative effect.

" I should like to point out that, in taking this final step, the Government of India are acting in logical accord with a policy which they have pursued ever since, more than twenty years ago, the fall in the gold value of silver first became acute. Throughout this period the underlying principle of their action has been the defence of India from the inevitable consequences of an unarrested decline in the sterling value of the rupee, namely, the necessity of imposing fresh taxation upon the Indian people; at the same time that the capital, upon whose introduction and proper application their future prosperity so largely depended, was being driven away by the insecurity arising from a constantly fluctuating exchange.

" The continuity of policy of which I speak has not been impaired by the fact that other remedies than that finally adopted have before now been sought; or that

even when the desirability of a gold standard became generally recognized, proposals were put forward for attaining it which have since been abandoned. For instance, as long as there was hope of an international bimetallic agreement, the Government of India looked favourably to such a solution. But when the Brussels Conference broke down, and it became obvious that we could not count upon co-operation with others, but must depend upon ourselves, the gold standard then rose into prominence. Since then it has been a question, not of principle, but of method. The Government of India have never lost sight of the ultimate goal which they had in view. With that object they closed the Mints to the free coinage of silver; with that object they made definite proposals to the Secretary of State; and with that object they now accept the recommendations of the Committee and are introducing this Bill.

"We do not tie our hands by taking this step. For whilst the adoption of a gold standard renders us independent of the caprice or hostility of foreign countries for the time being, it will not prevent us, at any date in the future, from embarking upon a discussion with foreign Powers as to an international agreement, should such an idea be again put forward; but will, on the contrary, enable us to enter the field upon equal terms, if, indeed, we may not claim a positive advantage in the possession of a stable system.

"My Hon'ble Colleague has explained in his speech the reasons for immediate legislation. They rest in the main upon the desirability of acquainting the public at the earliest moment with our resolve, and of inspiring them with the confidence which we are not conscious of rashness in admitting ourselves. We are not very much afraid of the danger with which we have been threatened, namely, that we may lose some of the gold which is on its way to our reserves. If this risk were a serious one, I would ask how it comes about that since the report of the Committee, since its acceptance by the Home Government, and ts recommendation to us—when all the world, so to speak, has been anticipating the action that we are now about to take, gold has, nevertheless, continued to flow into our treasuries—not in diminishing, but in increasing volume. In June we only received £77,000, and in July £23,000. But in August, after all these events had taken place, the inflow rose to £223,000; whilst for the week that ended on Monday last the additional amount of gold received in our treasuries and Mints amounted to £18,060. This does not look as though we were frightening away gold, or driving it into channels from which it would be incapable of recovery. Since sovereigns began to enter India last year, the amount of gold retained in our treasuries amounts to £2,620,000; and in future, as the

announcements that have been made will show, we look to receiving and coining gold of Indian production, in addition to that which enters the country in the ordinary operations of trade from the outside.

"I do not wish to dilate upon what to some may appear the sentimental advantage of a single gold coin, uniform and incapable of depreciation, circulating throughout the British Empire, although to me it seems that that fact has a very practical and an Imperial application. But I will put it in another way, and will say that, in the unimpeded and steady flow of the sovereign in circulation in and out of India, appears to me to exist a very potent guarantee for the extension of our mercantile relations both with the United Kingdom and with other parts of the British Empire. Every merchant who trades with India, every capitalist who invests in this country, will know in future that his sovereign is worth 15 rupees. The lender and the borrower will be dealing in the same money, with a fixed and unalterable denomination. For my part I cannot doubt that such a security must lend stability and confidence, not merely to our trade with foreign countries—and the London Committee has reminded us that four-fifths of our foreign trade is with countries possessing a gold standard also—but also to commercial and industrial development within our own shores. I do not desire to indulge in any chimerical dreams of the future; I do not expect any sudden or frantic rush of capital to India; I do not pretend that we are opening an Asiatic Klondyke to the investing world; least of all, am I anxious to import the speculative element into Indian business or finance; but I do firmly believe and hope that, subject to chances which none can foresee, but against which we are already on the watch, we shall, by taking these measures, invest the financial horoscope of India with a security which it has hitherto lacked, and which it will be our duty to utilize in the interests of our own clients, who are the Indian people."

The motion was put and agreed to.

The Hon'ble MR. DAWKINS introduced the Bill.

The Hon'ble MR. DAWKINS moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English.

The motion was put and agreed to.

The Council adjourned to Friday, the 15th September, 1899.

J. M. MACPHERSON,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 8th September, 1899.

G. C. Press, Simla.—No. 391 L. D.—14-9-99.—320.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 15th September, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir W. Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Rai Bahadur Protul Chandar Chatterjee.

CHURCH OF SCOTLAND KIRK SESSIONS BILL.

The Hon'ble MR. RALEIGH said :—" My Lord, the Bill to incorporate the Kirk Sessions of the Church of Scotland in this country has been unanimously accepted by the Local Governments, but the Government of Bombay has suggested a point in regard to the evidence of the Act of the General Assembly in Scotland by which the Kirk Session is constituted, which appears to us to be worthy of consideration. The letter of the Bombay Government only reached me last night, and, with Your Excellency's permission, I ask leave to postpone the motion that stands in my name."

His Excellency THE PRESIDENT said :—" I do not think that any objection will be entertained in any quarter to the proposal of the Hon'ble Mr Raleigh."

Leave was granted.

[*Mr. Dawkins.*] [15TH SEPTEMBER, 1899.]

INDIAN COINAGE AND PAPER CURRENCY BILL.

The Hon'ble MR. DAWKINS moved that the Bill further to amend the Indian Coinage Act, 1870, and the Indian Paper Currency Act, 1882, be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. DAWKINS moved that the Bill be passed.

The motion was put and agreed to.

The Council adjourned to Wednesday, the 27th September, 1899.

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 15th September, 1899.

G. C. Press, Simla.—No. 411 L. D.—18-9-99.—320.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Wednesday, the 27th September, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir W. Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Rai Bahadur Protul Chandar Chatterjee.

CHURCH OF SCOTLAND KIRK SESSIONS BILL.

The Hon'ble MR. RALEIGH moved that the Bill to provide for the Incorporation of Kirk Sessions of the Church of Scotland in British India be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. RALEIGH moved that the following sub-clause be added to clause 2 of the Bill, namely :—

"(2) A notification by the Governor General in Council in the Gazette of India that a Kirk Session has been duly constituted in pursuance of an Act of the General Assembly of the Church of Scotland shall be conclusive proof that it has been so constituted."

He said :—"It is evidently desirable that this Act should provide for the manner in which a Kirk Session may, in case of necessity, prove its corporate character. I was under the impression that the matter was provided for by the general sections of the Indian Evidence Act of 1872, but, on closer examination,

it appears at least doubtful whether the rules of that Act extend to the present case. I now move an amendment by which a form of proof is provided. A Kirk Session which is constituted in this country is constituted by an Act recorded in the books of the General Assembly. The Kirk Session here is furnished with a copy of that Act, authenticated by the signature of one of the clerks of the Assembly. We propose that that copy should be shown to the Government of India in the Home Department, and that thereupon a notification should issue, saying that the Kirk Session in question is one of the bodies incorporated under the Act."

The motion was put and agreed to.

The Hon'ble MR. RALEIGH moved that in sub-clause (*2*) of clause 3 of the Bill, after the word "Treasurer" the words "or Session-clerk" be inserted. He said:—"I think no long argument is required in support of this amendment. The Treasurer and Session-clerk are officers of equal importance in the Session, and it seems desirable that the signature of either of them should be accepted under this clause of the Bill."

The motion was put and agreed to.

The Hon'ble MR. RALEIGH moved that the Bill as amended be passed.

The motion was put and agreed to.

CENTRAL PROVINCES COURT OF WARDS BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Court of Wards in the Central Provinces. He said:—"I propose at the next meeting of the Council to move that the Report of the Committee be taken into consideration, and I will defer making any remarks on the alterations which the Committee propose until then."

PUNJAB COURTS BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill further to amend the Punjab Courts Act, 1884. He said:—"The criticisms which the Bill has received in the English and Vernacular Press of the Punjab since its introduction and publication have taken for the most part two opposite directions. One set of critics have remonstrated against

[27TH SEPTEMBER, 1899.] [*Mr. Rivaz.*]

curtailing in any degree the present liberty of appeal to the Chief Court which is possessed by the Punjabi litigant, on the ground that it is a highly prized privilege, any restrictions upon which will cause great dissatisfaction. Well, my answer to this is, that the Chief Court, even with its present strength of four permanent and two additional Judges, a strength which, as I pointed out when introducing the Bill, must be admitted to be in excess of the legitimate requirements of the Province, is unable to cope with the work which comes to it under the existing system. Not only are the arrears, for the disposal of which the two additional Judges were temporarily sanctioned, not being diminished, but they have actually increased during the past year, and I understand that it takes ordinarily about two years before any appeal which has to go to a Bench of two Judges comes on for hearing. The privilege, therefore, which is said to be so highly prized by the Punjabi litigant, of being able to get his case heard by the highest Court of the Province, is one which, under present conditions, takes a pretty long time to attain fruition. If the existing system of appeal were maintained, the Chief Court would have to be strengthened even above its present number of Judges, and this is out of the question. The other set of critics take another line. They admit that the Chief Court is overburdened with the work which at present comes to it, but they attribute this state of things to the faulty system in existence which allows a further appeal on the whole case, including the facts; and they advocate the assimilation of the law of second appeal in the Punjab to that which is prescribed in the Code of Civil Procedure. My answer to this set of critics is two-fold :—First, there is a strong weight of opinion that the time has at all events not yet come for altogether abolishing the present special system in the Punjab of allowing a further appeal on the facts, especially in land-suits, as well as on points of law or custom; and, secondly, the law of second appeal, as at present contained in the Civil Procedure Code, has been declared by many competent authorities to need amendment, and its revision will, in all probability, be shortly taken in hand. This, however, will take time, and meanwhile, as I have shown, the case of the Punjab requires prompt treatment. The Committee have therefore proposed no alterations in the main scheme embodied in the Bill, the details of which I explained when introducing it, except that, for the sake of simplification, we think it unnecessary to make any distinction between small causes and unclassed suits, and would accordingly in both cases allow a further appeal unconditionally when the value of the suit is Rs. 2,500 or upwards.

"As regards, however, one of the subsidiary provisions of the Bill, we have proposed a substantial modification. I explained, when introducing the Bill,

that one of its clauses abolished the present system of certificate appeal on questions of law or custom, and in its stead enlarged the revisional powers of the Chief Court by extending them to non-appealable cases in which a question of law or custom and of general interest might be involved, on application being made within 30 days. This clause has been a good deal criticised, the grounds taken being that (1) the period allowed for the application is too short, (2) the words "of general interest" are too vague and indefinite, and (3) the revision procedure is too summary for the proper treatment of the cases in question. We have admitted the force of these criticisms, and have accordingly extended the period of application to 90 days, have substituted for "of general interest" words which make it clear that the question of law or custom raised must, in the opinion of the Court, be an important one and requiring further consideration, and have provided that when an application of this nature is admitted, the subsequent procedure shall be that prescribed for an appeal. At the same time, we propose to exclude from the scope of the clause in question small causes under the value of 1,000 rupees, and unclassed suits under the value of 200 rupees, and to restrict the Court, when dealing with these applications, to the particular question of law or custom raised.

"I venture to think that the scheme under consideration, thus modified, may reasonably be regarded as a happy mean between the views of those who wish, on the one hand, to maintain the present system of further appeal in the Punjab in its entirety, and of those who wish, on the other hand, to abolish it altogether and to substitute the law of second appeal of the Code. A further appeal on the whole case will still be allowed in really important suits of all kinds, while in other cases above a certain limit, practically a second appeal will be allowed by permission of a Judge of the Chief Court on any important question of law or custom involved.

"We have also proposed two additions to the Bill, at the instance of my Hon'ble friend Mr. Justice Chatterjee, on points of procedure. These are explained in paragraphs 4 and 5 of our Report.

"I have only to add that I hope at the next meeting of Council to move that our Report be taken into consideration and the Bill be passed."

His Honour THE LIEUTENANT-GOVERNOR said:—"In March, 1897, the Government of India addressed the Local Government on the subject of the evils of protracted litigation: observing that it gives the man with the longer purse an unfair advantage, and that under the existing system the courts of

first instance tend to become timid and technical, while the High Courts, instead of having the leisure for the deliberate disposal of really important issues, are burdened with a host of petty and often frivolous cases. This subject, among others, was referred to a mixed Conference of Judicial and Executive Officers which met in September, 1897, and unanimously recommended the raising of the money limit for the institution of further appeals as of right, more particularly in cases in which the first Court of Appeal has not varied or reversed, otherwise than as to costs, the decree of the Court below. It was proposed by some members of the Conference that provision should be made for further appeal by permission in certain other cases in which important questions of law or custom were at stake; and in communicating to the Chief Court proposals based upon the Report of the Conference, I accepted the view that opportunity should be given for the disposal of all such questions by the highest Appellate Court in every case in which the Punjab Courts Act, 1884, provided for a further appeal by certificate or permission.

"Under the peculiar conditions of this Province, which is mainly one of small peasant proprietors whose rights are regulated by a body of custom not yet codified nor even fully ascertained by judicial decision, it has been and continues to be inevitable that the volume of litigation should be large, and the power of the Chief Court to enforce uniformity in the application of the law, an extensive one. The measure under discussion is one in a progressive series of compromises between two urgent needs: to reduce delays and secure early finality on the one hand, and to provide adequate means for the uniform interpretation and application of a half developed body of law and custom on the other. Recognizing—what has always been recognized in the Punjab—that the subordinate courts are weak and that circumstances are such as to require special care in the disposal of cases relating to land or custom, I am not prepared to admit that the Province has arrived at that stage at which the Court empowered to deal with further or second appeals can safely be restricted to the consideration of questions of law and custom without power to review findings upon questions of fact; but I do not contest the view that when the sole *raison d'être* of a further appeal is the existence of an important question of law or custom, the Chief Court may properly be required to restrict its action to the decision of that question.

"I understand that the Bill as now amended by the Select Committee maintains the old Punjab law of further appeal *as of right*, with power to the Court to re-open questions of fact as well as questions of law or custom, though it raises the money limit for the institution of such appeals; and that it recognizes

the need for the authoritative determination of important questions of law or custom in cases in which no further appeal lies as of right, while it deprives the Chief Court of the power of revising the decision otherwise than as regards the question of law or custom in respect to which the application was admitted.

"The money limit for further appeals as of right is therefore not a new feature. It is borrowed from the existing Act and, though it may not be logically defensible in the abstract, its justification lies in the fact that the Legislature has to devise a compromise between two needs and that it furnishes a simple and practicable means of shortening the course of a large section of the less important class of the litigation of the Province. To the limits now proposed, there is, I think, no objection, having regard to the facilities which the law continues to furnish in regard to cases where important questions of law or custom are involved.

"Those facilities are furnished in the form of a special ground of revision, enabling the Chief Court to call for the record in any land case and in other important cases of high value in which it is of opinion that there is an important question of law or custom involved and that such question requires further consideration, and to treat the matter of the application as if it were a second appeal. There is no reason to apprehend that important questions will, under these provisions of the Bill, fail to be laid before the Chief Court for determination, while the power of the Court to discourage unreasonable litigation will be largely increased."

PUNJAB ALIENATION OF LAND BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to amend the law relating to agricultural land in the Punjab. He said:—"Before asking leave to introduce the Bill for amending the law relating to agricultural land in the Punjab, I am afraid that I must tax the patience of the Council by giving, at some little length, a historical retrospect of the case before us. I will endeavour, however, to be as brief as possible.

"The question of the indebtedness of the agricultural classes in different parts of India has attracted the notice of Government from the early times of British rule, and various schemes have been proposed, from time to time, with the object of protecting land-holders from the effects of debt and the consequent loss of their lands. But, so far as I have been ablé to ascertain, Mr. Justice West, of the Bombay High Court, was the first, in a pamphlet entitled

The Land and the Law in India, which he published in 1872, to formulate a plan for imposing some definite limitations on the power to alienate land. The theory he propounded was that, although the British Government had, for the most part, divested itself of that exclusive ownership in land which had been recognized as existing under native rule, still it had retained a right of protective ownership; and that, as experience had proved that the principle of free trade in land, which had been allowed to spring up, was not adapted to the present condition of the agricultural population of India, the Government ought, in the exercise of its protective right, to impose limitations on the further application of this principle, and to pronounce all land to be inalienable except with its assent. His proposed scheme, broadly, was that the power of assent should be delegated to Collectors of districts or other local officers, and that only excess land, above what was necessary for the comfortable maintenance of an agriculturist and his family, should be allowed to be alienated, or be liable to attachment and sale in execution of decrees.

"In 1875, in consequence of agrarian riots in the Bombay Deccan, a Commission was appointed to enquire into the condition of the agricultural population of that part of India. The result of these enquiries was the passing of the Deccan Agriculturists' Relief Act in 1879, by which the ordinary civil law in four of the Bombay Deccan districts was, in many respects, amended in favour of agricultural debtors.

"In 1881, legislation was undertaken for the relief of large land-holders in Sindh and in the Broach and Kaira districts of the Bombay Presidency, and in 1882, for the relief of encumbered estates in the Jhansi division of the North-Western Provinces. A main feature of all these enactments was that, while the estate remained under Government management, the indebted owner was debarred from alienating any portion of it.

"The question of agricultural indebtedness was included by the Famine Commission of 1878 in the scope of their enquiries, and, in their report, they expressed their views on the desirability of protecting agricultural debtors, among other means of relief, by imposing restrictions on land transfers.

"In 1886, Mr. Thorburn, now Financial Commissioner of the Punjab, then a District Officer in that Province, wrote a book on the indebtedness of the Muhammadan land-holders of the Western Punjab, entitled *Mussulmans and money-lenders in the Punjab*, which attracted the notice of the Secretary of State for India, and on which he asked for the views of the Government of India.

In this book, Mr. Thorburn recommended, among other measures of relief, that it should be made illegal in the west of the Punjab for any person deriving profits from a shop or from money-lending to acquire any interest in land, except (1) in arable or pasture land in the immediate vicinity of a town or large village, or (2) in manured and irrigated land elsewhere. The then Lieutenant-Governor of the Punjab, Sir James Lyall, in expressing his views on Mr. Thorburn's proposals, said, as regards the particular recommendation which I have just mentioned, that he was disposed to think that it would probably be necessary to take steps to check the alienation of lands to money-lending classes in the Punjab, but that the remedy suggested by Mr. Thorburn, namely, to make it illegal for the moneyed classes to acquire lands, other than those of two highly artificial descriptions, seemed to him to be impracticable.

"In 1891, a Commission was appointed to report on the working of the Deccan Agriculturists' Relief Act of 1879 and on the desirability of extending a similar measure to other Provinces. The Government of India, in forwarding this Commission's Report to the Secretary of State in 1894, together with a draft Bill to provide for the relief of the agricultural classes, in which certain changes proposed by the Commission in the Deccan Act had been incorporated, remarked that such legislation would, however, only partially meet the difficulties connected with the general problem of agricultural indebtedness; that remedies of an entirely different kind, including measures for further restricting the right of land transfer seemed indispensable; and that this part of the subject would be separately and carefully considered.

"Accordingly, a Circular was addressed to Local Governments in October, 1895, in which it was said that the Government of India were distinctly of opinion that some action in the direction of restriction upon the alienability of land was generally advisable, and even necessary, though the manner and degrees of the restriction must vary from Province to Province. Each Local Government and Administration was requested to take the subject into its most careful consideration, and to communicate its matured views and definite proposals for action in the direction indicated. Two Notes accompanied the Circular, in which the whole subject of Agricultural Indebtedness in India and the various possible remedies for checking transfers of land were exhaustively explained and discussed.

"On receipt of the replies to this Circular, it was decided to deal first with the Punjab, as being the Province where the question of agricultural indebtedness was of special importance in its political aspect, and where it was probably possible to go further than elsewhere in respect of imposing direct restrictions on land

transfers. The reply from the Punjab had been to the following effect:—'The Lieutenant-Governor, Sir Dennis Fitzpatrick, recognized that a point might be reached at which the amount of land alienated, and the number of proprietors reduced to the condition of tenants or labourers, would constitute a political danger of formidable dimensions, and that where this danger point was reached, the only remedy was to attack the evil at the root by imposing direct restrictions on alienation—for instance, by prohibiting land-owners of specified castes or tribes from alienating their ancestral lands, without official sanction, beyond their life-time or for a fixed period to any person not belonging to those castes or tribes.' While this case was under consideration, a special enquiry, the results of which were highly interesting and instructive, had been made by Mr. Thorburn, the Commissioner of the Rawalpindi Division, regarding the indebtedness of the agricultural classes and the amount of land alienations in four assessment circles of that portion of the Punjab; and Sir Dennis Fitzpatrick came to the conclusion that in one at least of these circles a case for legislation had been made out. He was, however, strongly opposed to a law of general application to the whole Province, and did not propose to go further than to take power by law to apply restrictions on transfer to any particular tract in which a full enquiry might show that they were required.

"Both the Financial Commissioners of the Punjab, on the other hand, expressed a decided opinion in favour of restrictive measures of general application, and suggested that all permanent transfers of ancestral land ought to be prohibited unless sanctioned by the Revenue-officers, while temporary transfers ought to be limited to 15 years, the land reverting to the alienor at the end of this period free of all encumbrances. A majority of the Judges of the Chief Court were also in favour of imposing direct restrictions on alienations. My Hon'ble friend Mr. Justice Chatterjee, after discussing the question in an able paper and pointing out that the customary law of the Punjab enables heirs to set aside many alienations, went on to say that he considered that the great recommendation of a measure directly restricting alienations would be that it would exactly define the limits of the land-holders' power of alienation, and would thus have a beneficial effect in checking litigation. He thought that the restriction to life or to 15 years of a land-owner's power of alienating his ancestral lands would be regarded by the bulk of the land-holding class as consistent with the traditions of the Province, and would be agreeable to them. It is not clear, however, whether the Judges advocated a general enactment on these lines, or merely an enabling one, as recommended by Sir Dennis Fitzpatrick.

"The Government of India, in communicating to the Punjab Government the opinion which they had formed on the evidence and recommendations contained in Sir Dennis Fitzpatrick's minutes and in the reports of the Judicial and Revenue Officers of the Punjab, expressed their belief that partial legislation would fail in its object and would produce more difficulty and jealousy than legislation of a general character. It was said that a strong case seemed to have been made out for prohibiting all permanent alienations of agricultural land, except with the sanction of some duly empowered Revenue-officer, and for restricting temporary alienations to the term of the alienor's life, or with the consent of his heirs to a maximum period of 15 years. In inviting the Punjab Government to consider these proposals, it was suggested that the quickest and easiest way of dealing with them would be to have them discussed by a Committee of selected officers.

"Accordingly, the Lieutenant-Governor, Sir Mackworth Young, circulated to selected officials and non-officials a series of questions framed on the proposals of the Government of India, and followed this up by convening a strong Committee of Revenue-officers, over which His Honour himself presided. The recommendations made by this Committee were that any permanent alienation of agricultural land to a non-agriculturist, if made without the sanction of the Deputy Commissioner of the district, should be void, but that otherwise there should be no restriction on sales or other permanent transfers; that the definition of an 'agriculturist' should be 'any person who either in his own name, or in the name of an agnate ancestor, was recorded as an owner of land or as a hereditary tenant in any estate at the first regular settlement,' and that of 'land' as in the Punjab Tenancy Act, that is, all agricultural and pastoral land, whether ancestral or self-acquired; that the only forms of temporary alienations to be allowed in future should be (1) usufructuary mortgage, with delivery of possession to the mortgagee, for a maximum period of 20 years, and on condition that at the end of the period of mortgage the mortgaged land shall revert to the mortgagor or his successor in interest with the mortgage debt extinguished, (2) simple mortgage which, in certain circumstances, may be converted into a usufructuary mortgage of the nature I have just mentioned, and (3) leases for 20 years, or for the life of the lessor, whichever is less; that the form of mortgage which is conditional sale be declared illegal with retrospective effect; and that the hypothecation of a share of the produce of land should be prohibited for any term exceeding a year. The Committee proposed to make their suggested restrictions on alienations general throughout the Punjab, but to give power to the Local Government to exempt any district or part of a district or any person or class of persons

from the operation of the restrictions in whole or in part. They also proposed to amend the existing law of pre-emption in the Punjab, to revise the present order of priority of pre-emption which is laid down in section 12 of the Punjab Laws Act so as to exclude strangers who have bought into the village, and to transfer the hearing of pre-emption cases, both as regards the fixation of the pre-emption prices and questions of title, from the Civil Courts to Revenue-officers.

"These proposals of the Punjab Committee constitute the foundation of the scheme which is embodied in the Bill which I am introducing. They have, as I shall explain, been modified in some particulars, but such modifications have been made with the sole object of securing more effectually the intentions of the Committee, and do not affect any question of principle. I turn first to the restrictions to be imposed on sales and other permanent transfers. It appeared to us that the proposal made by the Punjab Committee, that alienations between 'agriculturists' should continue to be free from all restrictions, was open to objection. In the first place, the definition of 'agriculturist' which has been framed by the Committee, or indeed any other practicable definition of the term, must necessarily include numerous classes of persons who, although land-holders since the early years of British rule or even prior thereto, are in reality primarily traders and money-lenders by nature and profession, and not true agriculturists in any proper sense of the term. Moreover, since even the *bonâ fide* agriculturist is not infrequently also a money-lender, we think it desirable to retain power to prevent such men from buying up land in a village where they would come in as outsiders and constitute a foreign element in the village community. We recognize, however, that we must guard against unduly narrowing the market for free sales, and we propose to attain this object by the following means. On the analogy of section 45 of the Central Provinces Tenancy Act of last year, we are providing that all permanent transfers must receive the previous sanction of a Revenue-officer, but that sanction shall be given, as a matter of right, in cases in which the Revenue-officer is satisfied that the intending transferor is a person who is not a member of an agricultural tribe, or, in cases where the intending transferor is a member of an agricultural tribe, that the transfer is either to an agriculturist (as defined by the Punjab Committee) holding land as a proprietor or occupancy tenant in the village in which the land sold or otherwise permanently alienated is situated, or to another member of the same agricultural tribe residing in the same district. Our scheme is thus based in this respect on the feeling in favour of the prior rights of the village community and on the recognition of the principle of tribal organization which are well known

powerful factors in the social economy of the agricultural classes of the Punjab. To prevent difficulties or inequalities in the application of this portion of our scheme, power is being given to the Local Government to specify by notification what are the agricultural tribes in each district, and to extend the definition of 'district' in any particular case beyond the ordinary limits of the revenue district.

"Next, as regards temporary alienations, while we accept the conclusions of the Punjab Committee that only the two forms of mortgage proposed shall in future be allowed, that existing mortgages by way of conditional sale shall be void, and that leases shall be limited to a fixed term, we have reduced the maximum period of temporary alienation from 20 years as proposed by the Punjab Committee to 15 years. We are providing that any person who has made a permissible mortgage or lease shall be debarred from making any further alienation of his land during the currency of such mortgage or lease, but, after careful consideration, we have decided not to impose any further restrictions on temporary transfers, whether by prescribing an interval between two successive mortgages or leases, or by making the alienor retain a right of cultivation in the alienated land, his rent being fixed by authority, or by prohibiting the mortgage or lease of more than a certain portion of a holding. We are also providing that any permanent alienation made without the required sanction shall take effect as a usufructuary mortgage on the conditions prescribed for such mortgages, and that existing conditional sales and future unauthorized mortgages shall be treated in like manner.

"We have accepted the proposal of the Punjab Committee in regard to prohibiting hypothecations of produce.

"We are supplementing our proposed restrictions on voluntary alienations by abolishing the sale of all agricultural or pastoral land in execution of any decree or order. Under the present practice, sale of such land in the Punjab in execution of a decree requires, in the case of ancestral land, the sanction of the Financial Commissioner, and, in the case of other land, the sanction of the Commissioner of the Division. Such sanction is very seldom given; still, as the allowance or disallowance of sales depends on the individual judgment of the Financial Commissioner or the Divisional Commissioner, as the case may be, an undesirable element of uncertainty is thus introduced which it is advisable to remove. Moreover, under our proposed restrictions on mortgages, land could in future only be sold in execution of decrees for unsecured debts, and not for debts secured by a usufructuary mortgage. We, therefore, consider that sales of agricultural or pastoral

land in execution of decrees of the Civil Courts should in future be absolutely prohibited in the Punjab.

"As regards amending the law of pre-emption in the Punjab, we agree with the Punjab Committee that an amendment of the present law on the lines they mention is desirable, and will be a useful adjunct to our scheme for restricting land alienations. We propose to deal with this matter separately—after further consulting the Punjab Government—either by revising the present pre-emption sections of the Punjab Laws Act, or by cancelling those sections and framing a new enactment.

"On the all-important question whether the proposed Act shall be an enabling Act or a measure of general application, the Government of India adhere most decidedly to the opinion which they expressed, as I have mentioned, in addressing the Punjab Government, in favour of an enactment of general application. It seems to us self-evident that, if any restrictive scheme is to be worked in the partial manner which was so strongly advocated by Sir Dennis Fitzpatrick, it is inevitably doomed to failure. In the first place, the remedy would not be tried till the disease was very largely beyond cure; and in the second place, if the restrictive measures were confined to scattered tracts throughout the Province, the agricultural population in those tracts would be placed at a very serious disadvantage. Their credit would be injuriously impaired, for the money-lenders, while able to look to the land for their security everywhere outside these special areas, would naturally avoid lending to men who were prohibited from giving such security. The agriculturists in these areas would thus stand apart as a proscribed class, and would naturally resent their position. If, on the other hand, the restrictive scheme be made of general application, there is no reason to suppose that the credit of the general agricultural community will be materially impaired—not more so, at any rate, than is desirable in their own interests. Take, for instance, the case of the occupancy tenants of Upper India. Alike in the Punjab, the North-Western Provinces, Oudh and the Central Provinces, the occupancy tenant is very materially restricted in his powers of alienation, still it is a well known fact that this class of agriculturists, as a body, is prosperous, and can obtain accommodation from money-lenders on much the same terms as small proprietors. The fact is that the money-lender must continue to exercise his profession, and the agricultural community must, under the rural conditions of this country, continue to constitute his principal clientele. The money-lender plays a most useful, and even necessary, part in the social economy of village life, and no one wishes to eliminate him or to place unreasonable restrictions upon his

transactions. If our proposed scheme is made of general application, he will have to adapt himself to the new conditions, and will be easily able to do so. If, on the other hand, the scheme is applied only to selected and scattered areas, the money-lender will clearly be master of the situation as regards such localities.

"Such is the plan which the Government of India put forward with the object of checking the transfer of land from the agricultural classes in the Punjab. It certainly goes further in imposing direct restrictions on alienations than has hitherto been attempted in other parts of India, but the circumstances of the Province with which we are dealing are quite special, and I trust that I have shown, although I fear at tedious length, that our scheme is the outcome of very careful investigation and deliberation.

"After all, it must be borne in mind that we are aiming at reverting to some extent to a state of things which prevailed in the Punjab before it came under British rule. It is an arguable question whether the right of free transfer of land was recognized under Native rule, or whether it is what has been called the 'fatal gift' of the British Government, but, in any case, the question is for practical purposes one of mere academic interest, for it is an undisputed fact that in former times the exercise of the right of transfer, at all events in favour of money-lenders or other out-siders, even allowing that such right did exist in theory, was for several reasons exceedingly rare, and we know that even in these days in most Native States alienations of land are either absolutely prohibited or largely restricted. We know, too, that in the Punjab the custom of transferring land did not gain a footing for several years after the annexation of the Province, but that, as land has increased in value and become more attractive as a profitable investment, the number of transfers has increased correspondingly and is still increasing. In a letter addressed by the Punjab Government to the Government of India in 1888, during the Lieutenant-Governorship of Sir James Lyall, it was said that 'after allowing for the greater accuracy of the statistics of later years, Sir James Lyall considers that the statements of sales and mortgages from 1866 to 1886 show a large gradual increase in the area sold and mortgaged in the Punjab,' and that, 'in both the east and west of the Province there are districts where the transfers to money-lenders are serious and appear to be increasing, and where the fact requires Government to consider if a remedy cannot be found and applied.' In the following year, His Honour the present Lieutenant-Governor, then Financial Commissioner, recorded his opinion that 'the only safe conclusion is that there is year by year a gradually increasing amount of land being sold and mortgaged.' These opinions have been confirmed as districts have come under

settlement during the past ten years, and the question of transfers has been specially investigated by the Settlement Officers, while the enquiries made by Mr. Thorburn in 1895, to which I have already alluded, showed that in one out of the four circles with which he dealt, the amount of the cultivated area which had been purchased or was held in usufructuary mortgage by money-lenders was as much as 28 per cent., while in another circle it was 20 per cent. These facts speak for themselves. The Punjab is p e-eminently a land of yeoman and peasant proprietors, and the expropriation by the money-lending classes of these sturdy land-holders—men who furnish the flower of the Native Army of India, and who look forward, amid all the hardships and glories of a military career, to spend their declining years on their ancestral acres—has, under the influence of conditions which have sprung up under British rule, been progressing, as I have shown, in different degrees of rapidity in all parts of the Province. The sole and entire object of the measure which I have been explaining is, while affording ample facilities and a sufficient market for unobjectionable transfers, to arrest the further progress of this mischief and to check, by remedial action, an ever increasing political danger; and I venture to express a confident hope that our scheme will be received in this spirit by those in whose interests it has been devised."

His Honour THE LIEUTENANT-GOVERNOR said:—" It is unnecessary for me to allude to the history of this important and much pondered measure, as this has been fully detailed by my Hon'ble friend Mr. Rivaz. I shall confine myself to indicating briefly, what I believe to be the principal object of Government in prosecuting, through infinite varieties of opinion and shades of controversy, the course which has at last landed us in our present position, and to an expression of opinion as to the suitability of the lines on which, as explained by the Hon'ble Member, the Bill has been framed.

" The object, in which all are agreed, is to provide a corrective for the results of our own acts, to mitigate the almost revolutionary effects of British rule as applied to land tenures in the Punjab. In conferring or confirming an almost unlimited proprietary right in land, in separating the judicial machinery from the executive, in encouraging free resort to the Courts, we have for five decades been pouring new wine into old bottles; some of the flasks are cracking, some have already burst. The State must needs be prepared to undertake some risk in this process, which has been accompanied with many extraordinary and beneficial developments, but if it is too rapid, there is something worse than danger to be faced, and that is positive unfairness. If the processes of law which are

incidental to land cases are beyond the comprehension of the average land-holder ; if they are too drastic to permit of the continuance of methods which though halting and imperfect are sanctioned by ingrained habit and long established custom ; if they place the more astute money-lending class in a more advantageous position than the unsophisticated rustic : then the unfairness becomes marked, and interference becomes necessary. There is now a consensus that this is the case, and the Legislature is being invoked to remedy the evil. As to the limits of such interference there are, as I have already said, infinite varieties of opinion. There are also various methods of interposing: one has passed the stage of discussion and has taken shape in the amendment of the Contract Act, with the express purpose of placing the money-lender and the agriculturist on a level in the Courts ; one has been dealt with in the discussions on the present measure, but has been dissevered from it, owing to its complexity, and will probably form the subject of legislation hereafter—I allude to a proposal to amend the law of pre-emption. Except as regards matters of procedure, the Bill which is now about to be introduced comprises, in all probability, all the remaining methods which are applicable or in any way advisable. The main features have been sketched by the Hon'ble mover, and consist of the restriction of the power of alienation of land by sale or perpetual lease, and of the prohibition of all usufructuary mortgages, except what I may call the automatic repayment mortgage, where after the expiry of the term of mortgage, which is limited to a maximum of 15 years, the land reverts to the mortgagor, with the mortgage debt extinguished. The second of these provisions has my unhesitating concurrence. It is, in a way, the sheet anchor of the measure, as preserving the credit of the agriculturist. In regard to the restriction of sales, it would be tedious, as well as unnecessary, for me to explain my personal attitude. The measure as now proposed is a compromise, arrived at, after the fullest consideration, between two sets of opinions, and, like most compromises, deliberately and thoughtfully adopted, probably represents the best counsels. In the first place, there is nothing absolute about the restrictive provisions. The person who lies under the greatest disability under the proposed Bill, can obtain a dispensation from its provisions, if due cause be shown. Then the market for sale of land will be fairly open under a system which permits transfers to any agriculturist of the village or any member of the same agricultural tribe in the same district, it being understood that the word tribe is used in its widest signification, and that the district may be wider than the Revenue District if reason exists. And I concur with the Hon'ble mover that in these provisions there lies, to some extent, a reversion to a state of ideas which was prevalent in the early days of Punjab Administration, and is still widely recognized in Native States.

"Therefore, with due reserve as to details, I support the Bill which is now before the Council, believing it to be in many respects one fraught with great benefit to the Province, while those provisions regarding which there is most room for difference of opinion embody the result of one of the most laborious and protracted investigations ever conducted by the Government, and I feel it to be my duty to accept them."

His Excellency THE PRESIDENT said:—"The historical retrospect with which Mr. Rivaz commenced his interesting speech appeared to me to be of value in its general as well as in its particular application. He showed that the question of agricultural indebtedness in many parts of India had attracted the attention of Government, and had elicited the opinions of expert authorities at intervals throughout the present century, but that during the past 25 years it has become genuinely pressing and acute. Minutes have been written, resolutions have been circulated, and laws have been passed, for the mitigation of the abuse. But all of these have dealt, so to speak, merely with the fringe of the subject; and only to-day are we engaged, for the first time, in introducing a measure of first class legislative importance to check this great and growing evil.

"Does not this fact illustrate in a striking manner the method and deliberation with which we proceed? I am one of those, as may be known, who find that the machine of Government is apt to move somewhat slowly in this country, and to be a little ponderous and rusty in the revolution of its wheels. But for caution and slowness, in a matter affecting vast areas of territory, relating to the concrete rights of property, and touching the livelihood of hundreds of thousands, if not of millions, of the population, I have nothing but praise. Our studies and investigations can scarcely be too protracted; our action must, on no account, be flustered or precipitate; if our proposals are to be successful, full opportunity must be afforded to public opinion to digest and to accept them, provided, that is, that they are deserving of acceptance. It is very important that the mills of the Sirkar should grind slowly, because in the long run they are apt to grind exceeding small.

"Let me apply these observations to the present case. Mr. Rivaz has just asked leave to introduce this Bill, which has, I may almost say, been for years in course of incubation. It represents the unanimous views of the Government of India. It has been accepted by the Secretary of State. It is supported, in the brief but powerful argument to which we have just listened, by the Lieutenant-Governor of the Province to which it is proposed to be

applied. Yet so conscious are we of the importance of the precedent that we are setting, and of the far-reaching consequence of the solution that we propose, that we have resolved to give the amplest opportunity for the expression of the opinions, and even of the criticism, of those whose interests will be affected by this measure. In my opinion, legislation in this Council, which is invested with the law-making prerogatives of the Government of India, should be deliberate in proportion to its facility. Laws that are made in haste are apt to be repented at leisure. For these reasons, we now introduce this Bill, which public and expert opinion will have an ample opportunity of discussing during the next six months; and fortified, as we hope, by this outside assistance, we shall then take up the measure when we re-assemble at Simla next year.

"As regards the merits of the Bill itself, I would make these observations. The issues at stake are, in my judgment, as momentous as any that can attract the attention of the Government of India. There is no country in the world that is so dependent upon the prosperity of the agricultural classes as India. There is no Government in the world that is so personally interested in agriculture as the Indian Government. We are, in the strictest sense of the term, the largest landlords in creation. Our land revenues are the staple of our income; upon the contentment and solvency of the millions who live upon the soil is based the security of our rule. In the present case we have all the greater responsibility, from the fact that in the Province of the Punjab, with which we are now about to deal, we originated the present land-system which has had the unfortunate consequences that it is proposed to rectify, as well as the legal system which has given the usurer his opportunity. A double responsibility, therefore, rests upon our shoulders. We cannot afford to see the yeoman farmers of the Punjab—the flower of the population and the backbone of our Native army—dwindle and become impoverished before our eyes. Neither can we acquiesce in the consummation of a social revolution which is in contradiction both of the traditions of Indian society and of the cardinal precepts of British rule.

"If it be asked why we have selected the Punjab as the field of this experiment, the answer is that there the problem is most serious, there the evil has reached, or is reaching, the most dangerous dimensions, and there it possesses a political and social as well as a purely agrarian complexion. But our vision is not centred upon the Punjab alone. This canker of agricultural indebtedness, which is eating into the vitals of India, and which is one of the 12 questions that, as I have remarked on a previous occasion, I have set before myself the humble intention to examine, and if it may be, to attempt to solve, is not one of narrow or contracted application, though in particular parts it may be more grave in its

incidence than in others. We shall, doubtless, require to handle it in different ways in different areas. We began some years ago after a tentative fashion in the Deccan. We are now proceeding with a bolder venture in the Punjab. Should we be successful in this enterprise, we shall be encouraged to proceed, and thus, stone by stone, and layer by layer, to build up the fabric of economic and social stability for our rural population.

"I do not shut my eyes to the fact that many objections can be, and probably will be, raised to this legislation. It will be said that we are taking away a right which we ourselves too generously conferred; that we are depreciating the values of land, which, in my opinion, have been unduly inflated; or that we are affecting the credit of a section of the population, to whom a mistaken system has given the opportunity of borrowing up to the edge of their own ruin. I have, in these few sentences, indicated what would be the nature of my reply in each case. But I may add that even were these minor drawbacks to be realized—and I do not think that they will be to any appreciable extent—they must be weighed in the balance against the vastly superior advantages to the land-owning and agricultural community that we have in view; and they must be measured by the scale of the disaster which, unless some drastic measures be taken, will assuredly before long overwhelm the smaller Zemindar classes of our population. I trust that in the public scrutiny to which we now commit this proposal, these considerations of statesmanship may be borne in view, and that it may be remembered that great and salutary ends are not apt to be secured by timid and temporizing means."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 13th October, 1899.

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 28th September, 1899.

G. C. Press, Simla.—No. 444 L. D.—4-10-99.—320.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 13th October, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.
The Hon'ble Mr. C. M. Rivaz, C.S.I.
The Hon'ble Mr. C. E. Dawkins.
The Hon'ble Mr. T. Raleigh.
The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.
The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.
The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.
The Hon'ble Rai Bahadur Protul Chandar Chatterjee.

CENTRAL PROVINCES COURT OF WARDS BILL.

The Hon'ble MR. RIVAZ moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Court of Wards in the Central Provinces be taken into consideration. He said:—"The alterations which the Committee propose are fully explained in our Report, and I do not think that I need add any remarks. None of our proposals affect the main principles of the Bill."

The Hon'ble MR. CHITNAVIS said:—"My Lord, instead of recording a silent vote in support of the Bill, I wish to bear testimony to the good work done by the Court of Wards in the Central Provinces. Last year this Council had to consider the question of indebtedness among agriculturists in my Province, and the law of landlord and tenant was amended in several particulars with the object of restricting the right of transfer. It remains to be seen how far this recent legislation as regards landlord and tenant will cure the evils which admittedly exist—speaking of my own Province—where the Malguzar system prevails largely. Past experience, however, shows that the only way to save an encumbered estate is to take it under the protection of the Court of Wards. Many an old family of

Malguzars and Zamindars has to thank Government or the Court of Wards for being saved from complete ruin. In several instances, the tact and conscientious efforts of the local officers charged with the management of the Court of Wards saved some of the largest estates from an expensive litigation. The Bill as now amended in the Select Committee leaves very little to which objection could reasonably be taken, and as I believe that this Bill will facilitate and further the work of the Court of Wards in the Province, I have great pleasure in supporting it."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill as amended be passed.

The motion was put and agreed to.

PUNJAB COURTS BILL.

The Hon'ble MR. RIVAZ moved that the Report of the Select Committee on the Bill further to amend the Punjab Courts Act, 1884, be taken into consideration. He said:—"When presenting the Report of the Committee at the last meeting of the Council, I explained the amendments which were proposed by the Committee, and I have nothing further to say now."

The Hon'ble MR. CHATTERJEE said:—"MY LORD, the speech of the Hon'ble Member in charge of the Bill, when presenting the report of the Select Committee, contained a clear exposition of its provisions as finally amended by us. I wish only to offer a few personal observations on the Bill.

"That some amendment of the law of appeal in the Punjab is necessary is practically conceded on all sides. The difference of opinion lies in the form the amendment should take.

"I might here state that I wished to bring forward a proposal, foreshadowed in my note to the Punjab Government, to the effect that the law of further appeal should be retained, if necessary with certain limitations, for land suits alone and the law of second appeal of the Code of Civil Procedure introduced for all other suits. It had the support of one of my learned colleagues, Mr. Justice Robertson, and was based on the consideration that the latter classes of suits did not materially differ from similar suits in other parts of India and that it appeared *primâ facie* reasonable that litigants interested in them should be treated on the same footing in all parts of India. But it was pointed out that such a proposal

involved too great a departure from the scheme of the Bill which had been drawn up in accordance with the recommendations of the Government of the Punjab after consultation with the Chief Court and approved by the Government of India and sanctioned by the Secretary of State for India to be entertained at that stage. It was also mentioned that it was in contemplation to revise and amend the Code of Civil Procedure, the appeal sections of which would be among the first to be taken in hand and that by the time this was done the effects of the working of the present Bill would be known and any defects thus disclosed could be easily remedied in the light of actual experience. For these reasons I have foreborne to press my proposal.

"The introduction of the second appeal of the Code in complete substitution of the law of further appeal in the Punjab appears to be open to objection so far as the land suits are concerned and they form more than three-fourths of the further appeals. This is partially admitted in the memorial of the members of the Chief Court Bar Association, who are competent judges on the subject.

"A historical retrospect of the law of appeal in the Punjab shows that further appeals are a very old institution in the Province. Before the passing of the last Punjab Courts Act, XVII of 1877, not only the highest Court but Commissioners, who represented the present Divisional and Sessions Judges, used to hear them, whether the decisions of the Court below were concurrent or conflicting. By that Act, the right of appeal was somewhat curtailed and further appeals were confined to cases of conflicting judgments only. By section 39 of the Act, the law of the Code of Civil Procedure regarding Second Appeals was introduced into the Punjab, but section 584 was modified by adding a clause which allowed a second appeal 'on the ground of the existence, or non-existence, validity or invalidity of a custom alleged to have the force of law'. This law of second appeal remained in force for seven years until the present Punjab Courts Act was passed in 1884, by which the old further appeal was revived in a modified form in certain classes of cases in which a point of law or custom was involved.

"On abstract grounds there is a great deal to be said in favour of the Court of Appeal being empowered to deal with cases as a whole, namely, to correct errors of fact, as well as of law. But as to decide on facts ordinarily takes up much more time than to decide merely on questions of law, it has been found necessary to curtail the right of appeal to the second Appellate Court, which, both under the Code and the Punjab Courts Act, is the highest Court in

each Province. For this purpose the Code restricts the second appeal to particular points, namely, questions of law, custom, or irregularity of procedure, while the Punjab Courts Act seeks to attain the same object by an artificial classification of suits and by taking away the right of such appeal in suits under the value of Rs. 1,000 except under certain circumstances.

"I think the peculiarities of the appeal law of the Punjab is largely due to the nature of the substantive law of the Province. That law is, to a great extent, Customary law, which is in a fluid state and the main features of which have been accurately ascertained only in recent years. This law mainly furnishes the rule of decision in land suits in which the peasantry of the Province are most interested. As already stated more than three-fourths of the further appeals to the Chief Court relate to this important class. Until the Customary law is codified—a point on the advisability of which at present I express no opinion—or is superseded by Hindu or Mohamedan Law, which is an improbable contingency, a power of going into the merits of the custom set up must be retained by the Chief Court. The Civil Courts of the Province are among the latest established by the British Government and those of the lower grades are admittedly weak. The Subordinate Courts under present circumstances can hardly be allowed to come to a final and conclusive finding on a point of custom so as to lay down the law for the Province. It was on considerations like these that the amendment of section 584 of the Code of Civil Procedure, already mentioned, was made when Act No. XVII of 1877 was passed; and a similar provision will have to be re-enacted if the second appeal of the Code of Civil Procedure as it stands at present, is ever re-introduced into the Punjab.

"The Bill as finally modified in Select Committee will doubtless considerably reduce the number of further appeals to the Chief Court, probably by about one-half. But the extension given to the power of revision by clause (*b*) of section 70 will enable the Chief Court to give relief in all land suits, and small causes, and unclassed suits above certain values where the decision is wrong upon an important point of law or custom. Doubtless, this is a new departure in the direction of revision and the new provision will have to be carefully and cautiously though fairly applied. The element of uncertainty as to what will be considered an important point of law or custom cannot be wholly excluded, but on the whole it would seem that the present amendments will practically allow, within certain limits, the benefits of a second appeal like that of the Code of Civil Procedure, where the right of further appeal has been taken away. The admission of an application for revision under clause (*b*) of section 70 will indeed be a

matter entirely within the discretion of the Judge, but once admitted it will be dealt with like a second appeal with the additional advantage that the Court will be competent to go into the question of the existence or non-existence of the custom set up. In other words, the Court will act as if the clause added to section 584 of the Code of Civil Procedure by section 39 of the old Punjab Courts Act was restored. Thus, we should not be wrong in saying that by the present Bill some advance has been made in the direction of assimilation of the law of appeal in the Punjab with that of the rest of India.

"In regard to the other points of the Bill which call for remark I have nothing to add to the observations of the Hon'ble Mr. Rivaz. But I may be permitted to urge before Your Excellency and this Hon'ble Council the expediency and necessity of an early revision of the Code of Civil Procedure. It is defective in important particulars. A few of these defects were pointed out in the Select Committee which has framed provisions for remedying two of them. It is also in some respects too technical, probably more so than the procedure law of England, and is so far unsuitable for a country like India and particularly the Punjab where the bulk of litigants are ignorant peasants, a great majority of whom act without legal advice. It was proposed sometime ago to provide a special procedure for suits against agriculturists, but if the Code is properly revised, there will be no necessity for such a measure. When such revision takes place, any defects of the present Bill, disclosed by the actual working of its provisions, may be remedied by further assimilating the law of appeal of the Punjab to that of the Code, if that is considered the best course."

The Hon'ble PANDIT SURAJ KAUL said:—"My Lord, the Bill, now before Your Excellency's Council, has been well discussed and thoroughly considered by the Select Committee to which it was entrusted. The amendments that have been made in the Bill will, it is hoped, prove useful and valuable in their application. Some people contend that this Bill, when passed into law, will curtail to a large extent the present liberty of appeal to the Chief Court, and thus debar litigants from enjoying the privilege, they have hitherto had, of getting the highest justice within their reach. It is true that this will happen, and a certain class of litigants, who have, from the early days of the British rule in the Punjab, been accustomed to go to higher and higher courts on appeal till their cases are heard by the last court of appeal in the Province, will be greatly dissatisfied with this measure. Even as it is, the losing parties often complain that there is no higher court of justice after the Chief Court in the Punjab. But it must be admitted that the Chief Court,

even with its present strength, cannot cope with the work that comes to it under the existing system; and so cases have to lie undecided finally for years. In this way also the parties to a case suffer considerably. Before the British rule in the Punjab legal cases were generally decided either by the Panchayat system or by a Judge of the Court appointed for the administration of justice; and the decision thus given used to be taken as final. There used to be no courts of appeal in those days, and the people were quite used to the then existing system of law and were satisfied with it. This Bill, as it now stands before us, when passed into law, will not only effectively reduce the number of appeals in the Chief Court by discouraging unreasonable litigation, but will, I think, be also beneficial in saving people from the heavy expenses of court-fees and lawyers' charges. It sometimes happens that before a case is finally decided by the Chief Court, the decree-holder has spent more than the sum for which a decree is given in his favour; so that he has but the name of the decree to carry with him. Nevertheless, the Select Committee has amended the new section 70 so as to give the Chief Court power to call for records of cases not appealable to it, and to treat the matter of any application which may be admitted on the ground that important questions of law or custom are involved as if it were an appeal. This amendment, it is hoped, will remove, to a certain extent, the general complaint against the Bill.

"Another question which the public raise is whether the efficiency of the present Judicial Officers of subordinate courts in the Punjab—young and immature in experience as most of them are—is such that the people can safely depend upon, and be satisfied with, their judgments—which, in most cases, will be final. This is, no doubt, an important point, and it will, I think, be necessary to improve the subordinate courts, but it is a matter more for the Local Government to consider and remedy than for the Legislature to meddle with. The Local Government can best judge of the capabilities of the Judicial Officers of its Province, and can, at the time of vesting them with judicial powers, bear this point in mind.

"Besides the amendments made by the Select Committee, my Hon'ble friend Mr. Justice Chatterjee and I were of opinion that in land suits the Chief Court should be empowered to admit applications when the value of the suit is not less than *one* hundred rupees. In the Punjab, in such suits, even though they may be of small value, the interest to the parties concerned is very great. In cases of moveable property the decision of the Court affects only the parties directly interested, while in cases of land suits the result is regarded as affecting also the coming generations of the parties concerned. The force of this argument is very

much increased if we bear in mind the fact that the Punjab is a province of chiefly small peasant proprietors. As, however, the limit of Rs. 250 was, no doubt, fixed after careful consideration, I do not think it necessary to contend this point any further. I hope that in a couple of years' time or so, the Chief Court and the Punjab Government will be able to realize whether the Bill, in its entirety, has proved a useful piece of legislation, or whether some of its provisions call for re-consideration by Your Excellency's Council.

"With these few words, my Lord, I beg to support the motion that the Report of the Select Committee be taken into consideration."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill as amended be passed.

The motion was put and agreed to.

ASSAM LABOUR AND EMIGRATION BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to consolidate and amend the law relating to Emigration to the labour-districts of Assam. He said:—"The law on this subject is contained in Act I of 1882 as amended by Act VII of 1893, and in the Bengal Sanitary Act, I of 1889. I may explain at the outset that it is not proposed in the Bill to alter or even to touch, except in the one matter of the minimum statutory wage, which we propose to raise, the labour system constituted by the present Act. This labour system rests on the basis of a penal contract enforceable through the Criminal Courts, and although it is recognized to be exceptional and transitory, and although the Government of India are pledged to revise or put an end to it when the conditions of Assam are assimilated to those of neighbouring provinces, the time has not come to undertake this. The railways now in course of construction should, we hope, very materially modify the conditions under which labour at present finds its way to the tea gardens. The labourer will be brought nearer his home, will be more disposed to spontaneously proceed to Assam in search of work, and will be better able to return home if the work or pay fails to suit him. We shall be then under less obligation to assist the planter to retain the labour which at present costs him much to import, and under less obligation to provide by rules for the well-being of the labourer. Meanwhile we have abundant testimony that the labour conditions of the present Act are working satisfactorily in Assam. We consider that the minimum wages prescribed by the Act are now too low, regard being had to the rise in prices and to the higher rates which labour commands outside

Assam. But, with this exception, we are satisfied that the protection afforded by the Act to the labourer is sufficient, and will, in all probability, prove sufficient during the remaining term of existence of the present system.

"Our proposed amendments of the present Act are, therefore, confined to its recruitment provisions. There is overwhelming evidence that under the guise of 'free emigration' from the districts which supply labour to Assam, an organized system of professional recruiting has sprung up, which is not distinguishable from the professional recruiting recognized and licensed and controlled by the Act, save that it is entirely free from control and that it resorts with impunity to fraud, kidnapping, abduction of women, and other malpractices. The Act provides in a very minute and careful manner for the licensing of contractors and recruiters and the granting of certificates to garden-sardars deputed from the gardens to recruit. It requires that these agents shall bring the labourers they recruit before a Registering-officer in the district of recruitment, that the labour-contracts following on registration shall be similarly executed, and that the labourers after contract shall be conveyed under proper safeguards and official cognizance to Assam. But having provided this elaborate machinery for the protection of the labourer and for controlling the recruiter in the recruiting districts, the Act was so worded as to authorize any other unlicensed and uncontrolled form of recruiting which the ingenuity of labour-purveyors could devise. The unlicensed recruiter, instead of registering and putting his recruits under labour-contract in Bengal, carried them off under no supervision to Assam, and there placed them under contract.

"This is what is called the 'free emigration' system, and it is this system that has given rise to abuses which have necessitated the amendment of the law now proposed. The genuine 'free' emigrant, who pays his own way to Assam and goes there as a free agent to look for work, is obviously a man to be encouraged. But the genuine 'free' emigrant is very seldom met with, and the bulk of the labourers who proceed to Assam outside the precautions and safeguards of the Act are recruited and conveyed there by unlicensed recruiters and contractors or by garden-sardars, with the express object of being put under penal contract on their arrival in the labour-districts. When the labour-districts are reached, the emigrant is far from his home and amid unfamiliar surroundings, and he has practically no option but to accept the contract which he is called upon to sign. The only powers of control that Government has over 'free' emigrants are those conferred by a Bengal Council Act, I of 1889, which enables the Bengal Government to prescribe routes by which the emigrants are to travel and to lay down rules for the sanitary inspection and supervision over depôts and

rest-houses where they may stay on their way to Assam, but that Act is not in force in the Central Provinces or elsewhere outside of Lower Bengal.

"It may be asked why, after having provided an elaborate procedure for recruiting and engaging emigrants under official supervision at or near their homes, and for transmitting them after execution of the contract to the labour-districts, the Act of 1882 allowed or even invited recruitment to be carried on outside these provisions. The answer is that it was hoped that through the stage of assisted emigration the goal of genuinely free emigration would be reached. This hope has not been realized.

"When Sir Philip Hutchins introduced in this Council in January, 1893, the Bill which subsequently became Act VII of that year, he stated that the Bengal Government had brought to notice the prevalence of abuses and malpractices committed by professional recruiters under the "free system"—working without a license and outside of the Act, I of 1882. He drew attention to the unsatisfactory conditions as to sanitation under which the emigrants travelled from their homes to the labour-districts, and he explained that the Government of India proposed to combat these evils by (1) energetic executive action in the recruiting districts; by (2) constant and vigorous precautions along the line of march to Assam; by (3) strengthening the inspection system in the Assam tea gardens; and by (4) providing more complete remedies for the cancelment of contracts and repatriation of emigrants whenever they were found to have been taken to Assam wrongfully. Provisions designed to give effect to these measures were accordingly included in the Bill.

"Sir Steuart Bayley, when Lieutenant-Governor of Bengal, had proposed, with a view to checking the abuses complained of before 1893, that all recruiting except by licensed recruiters should be disallowed, that all recruits should be registered and their contracts executed in the districts of recruitment, and that no labourer should be permitted to enter into a penal contract in Assam until he had been proved to have resided two years there. The Government of India thought, at that time, that as few complaints of crime ended in conviction, there could not be any serious amount of crime connected with recruitment in the recruiting districts; that official interference which was not absolutely necessary would make emigration unpopular and be a retrograde step tending to discourage free emigration and retarding the day when all special legislation could be abandoned, and they considered that the amendments of the law embodied in the Bill of 1893, combined with the vigorous enforcement of the ordinary criminal law

and of sanitary precautions for the protection of the emigrants *en route*, would enable Local Governments to put down the malpractices then complained of in the recruiting districts.

"While the Bill of 1893 was under consideration, Sir Charles Elliott succeeded Sir Steuart Bayley as Lieutenant-Governor of Bengal.

"He hoped, without having recourse generally to the system of initial registration, recommended by his predecessor (Sir Steuart Bayley), to be able to suppress the malpractices of 'free' recruiters and agents, with the aid of the powers conferred by the Act of 1893, coupled with a revision of the rules under the Bengal Act, I of 1889, and with other executive measures which he proposed to undertake.

"Sir Charles Elliott obtained and reviewed periodical returns showing the number of offences reported in connection with emigration from Bengal, in which complaints by and against emigrants were distinguished. He drew up revised rules under Act I of 1889, under which he proposed to bring professional recruiters under control by licensing them; but these rules were declared by the law officers to be *ultra vires*. He had previously, as Chief Commissioner of Assam, opposed the Bengal Government proposals to put a stop to the so-called 'free emigration' system, but having acquired experience of the working of that system in the recruiting districts, and his rules having been declared to be *ultra vires*, he keenly felt the abuses that had sprung round the system of 'free emigration'. The term 'free emigration' he wrote was used in a non-natural sense; it depended upon a machinery of recruiters, sardars, contractors and local agents, who, however carefully they might be watched, could not be controlled by the executive. He acknowledged that there were innumerable complaints of fraud and violence connected with the system, and, at the request of the Bengal Chamber of Commerce, appointed a Commission to enquire into the whole subject. He trusted that the Commission would be able to arrange for the formation of a Central Recruiting Agency in Calcutta, which would undertake the entire business of supplying labour to Assam, at a reduced cost and without the abuses that attended the existing system.

"The Commission consisted of Mr. Williams, C.S., who had served himself in Assam for many years and afterwards as Collector and Commissioner in the recruiting districts of Bengal; Dr. Comins, formerly Superintendent of Emigration and Protector of Emigrants in Bengal; Messrs. Begg and Gladstone, representatives of the Indian Tea Association; and a native gentleman, Kumar Dakhineswar Malia. From its constitution it is apparent that the Commission was in

no way biassed against the so-called 'free' emigration system or in favour of the system of initial registration of emigrants and verification of contracts in the recruiting districts; yet, after visiting the recruiting districts, they unanimously reported that the formation of a Central Agency was impracticable, that malpractices had increased since the passing of the Act of 1893, that without alteration of the law it was impossible for the executive Government to stop them, and that the cost of importing labour to Assam was steadily increasing owing to the abuses arising from the competition of unlicensed professional recruiters. The evidence adduced in the Commission's and local officers' reports in support of the Commission's conclusions on these points appears to the Government of India to be full and conclusive. The Commission made certain recommendations for the adoption of measures to check abuses and the Government of Bengal (Sir Alexander Mackenzie) accepted generally their recommendations and commended them for adoption to the Government of India.

"The Commission's report, with the Bengal Government's comments on it, was circulated for criticism to all the Local Governments and Administrations concerned, with the result that they all agree substantially to the amendments in the law which we now propose.

"These amendments are to the following effect:—

(1) We empower the Local Government to prohibit all persons from recruiting, or engaging, or assisting any native of India to emigrate from any specified part of its territories to any or all the labour-districts otherwise than in accordance with the provisions of the Act. When such a notification issues it will completely stop the present unlicensed and uncontrolled system of 'free' recruiting, by making it punishable as a criminal offence.

(2) Having brought the present unlicensed contractors and recruiters under license and control, we further require that they shall register the emigrant in the district in which he has been actually recruited and before a responsible officer, and that they shall subsequently enter into the labour-contract with the registered emigrant, if not in the actual district of recruitment, at least at some central place near such district. We do away with the special procedure under which a labour-contract for any district in the Assam Valley can at present be entered into by a so-called 'free-emigrant' at Dhubri.

(3) We provide for an interval of at least three days between registration of intending emigrants and execution of contracts by them.

(4) We make additional provisions for repatriating labourers found to have been enticed away from their homes by fraud, or to have been forced away by violence, or rejected by the Registering-officer.

(5) We prohibit the execution of a penal contract by a woman without the consent of her husband or lawful guardian.

(6) We provide that the medical examination of labourers intending to proceed to the labour-districts on the point of physical fitness to labour, be made compulsory in the recruiting districts in the case of contractors' coolies, and optional in the case of sardars' recruits.

(7) We provide that when a labourer is convicted of desertion he shall not be liable to be detained or to be returned to the garden he left, for any period beyond the last day of the contract he broke by desertion.

(8) We raise the minimum contract wage prescribed by the present law from Rs. 5 in the case of a man and Rs. 4 of a woman to Rs. 6 and 5 respectively.

(9) We make minor alterations as to the amounts of license-fees payable by contractors, sub-contractors and recruiters.

(10) In addition to these amendments of the Assam Labour and Emigration Act we are separately proposing that the Bengal Act, I of 1889, relative to sanitary control over arrangements for free emigrants *en route* to Assam, be converted into an Act of the Government of India and be made extendible to the Central and North-Western Provinces and any other Province from which labourers may be recruited in future, and that its scope be enlarged so as to give Local Governments power to frame rules to give their officers definite powers of entry and inspection of depôts and rest-houses for other than sanitary purposes.

"There are certain exceptions under amendments (1) and (2) with regard to the licensing of recruiters and the registration of emigrants and execution of contracts by them in the recruiting districts which I shall now specify—

(*a*) There is a certain amount of really spontaneous or free emigration to the Surma Valley. This it is not proposed to interfere with under

the Bill. The Bill does not empower a Local Government to prohibit persons from going without assistance and of their own accord to any part of Assam. The Bill further leaves it at the discretion of the Local Government to prohibit or not to prohibit 'assisted' emigration outside the Act. It is conceivable, for instance, that 'assisted' emigration to the Surma Valley has not the objectionable features which attend 'assisted' emigration to the Brahmaputra Valley.

(*b*) Recruitment carried on by uncertificated garden-sardars has not been abused and it is desirable to encourage it. These sardars are servants deputed by individual planters from their gardens in Assam to the recruiting districts to bring up coolies to the planter's particular garden. It is proposed to subject them to a certain amount of control, but their coolies need not be brought before a Registering-officer to be registered, nor need contracts between the planters and coolies recruited by them be executed in or near the recruiting districts. The concessions made to these uncertificated garden-sardars can be withdrawn at any time if they are abused.

(*c*) It is proposed to make similar concessions to approved associations or companies, such as the proposed Central Recruiting Agency, should it ever be formed. There is no immediate prospect, so far as the Government of India are at present aware, of the formation of a central agency which would undertake the whole business of recruiting labour for Assam, because all the planters are not willing to combine and join such an agency, and unless all do agree to join, it would not be right to give any agency a monopoly, thus compelling the dissentients to join it. But even if such an agency were formed, the necessity of the proposed amendments in the law would not be thereby obviated. To give any agency a monopoly in recruiting it is necessary to have the legal power of preventing recruiting by others, which power does not exist under the present law. Should the proposed central agency be formed later on and should it be found desirable to give it a monopoly in recruiting, that object can be effected under the Bill by giving licenses to its recruiters and to no others; while should any number of planters short of the total number combine to form an agency among themselves, their sardars can be given

the same concessions as uncertificated garden-sardars under the Bill, leaving the others to make their own arrangements, provided they are consistent with the law.

"It is unnecessary that I should at this stage enter into an elaborate discussion on, or justification of, the various amendments which I have described. It is sufficient for me to say that most of them are on the lines recommended by the Labour Commission, and that they have all been accepted as necessary and adequate to put down abuses in the recruiting districts by all the Local Governments concerned. The Indian Tea Association has also expresssd its approval of the principal amendments in the law now proposed.

"I return now to the one matter in respect of which we propose to modify the labour conditions of the present Act. We propose to raise the minimum contract wage from Rs. 5 to 6 a month in the case of a man, and from Rs. 4 to Rs. 5 a month in the case of a woman. As to this proposal I may observe that the Bengal Labour Commission, on which the tea interest was represented by Messrs. Begg and Gladstone, acknowledged, in paragraph 81 of their report, that if Government would insist on the reduction of the cost of importing labour to Assam, which reduction they anticipated would be one of the results of adopting their recommendations, it would be fairly entitled to demand some increase in the pay of the coolies. The proposal to raise the minimum wage has been pressed upon us by the Local Governments of Bengal and the North-Western Provinces and by the Chief Commissioners of the Central Provinces and Assam. The present statutory wage was fixed more than 34 years ago, when the ordinary wages of labour in the recruiting districts were lower and the demand for labourers in Assam less than it is now, and it is clear therefore that a wage which was then sufficient to induce emigrants to proceed voluntarily to Assam is inadequate now. It has been argued in some quarters that inasmuch as the labourers can, by working overtime, earn more than the contract wage, it is unnecessary to raise it; but this argument ignores the fact that labourers could also earn extra wages by working overtime in 1865, when the minimum wage was fixed, as well as now. The amendments relating to the initial registration of intending emigrants and the verification of contracts to the recruiting districts, to the licensing of all professional recruiters, to the medical examination of labourers in the recruiting districts, to the repatriation of labourers and their dependents and to the prohibition of execution of contracts by females without consent of their husbands or guardians, have all been accepted by the Local Governments concerned and are explained in the papers which will be circulated and I need not occupy the time of the Council in considering them now.

13TH OCTOBER, 1899.] [*Mr. Rivaz.*]

"In conclusion I may repeat that it has always been the desire and policy of the Government of India to dispense with all special legislation relating to recruitment of labour for Assam. We still adhere to that policy. We hope that some time after communication to Assam by rail is opened up, by completion of the Assam-Bengal railway, it may be possible to do away altogether with the system of penal contracts, or at least to make substantial changes in the Assam labour system in the direction of abolishing such contracts. For the present it is necessary to maintain the system, and while it is maintained, we trust that the changes in the law now proposed will have the effect of stopping abuses in recruitment while cheapening the cost of importing labour to the districts. We have thought it desirable to consolidate as well as to amend the labour law, so as to make it more easily intelligible, and, as I have already mentioned, to make the Bengal Sanitary Act, I of 1889, extendible to other recruiting provinces.

"This Bill and the other Bill just referred to, which I shall presently ask leave to introduce, will now be circulated for criticism, and it is proposed to pass them during the coming session in Calcutta."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Fort St. George Gazette, the Calcutta Gazette, the North-Western Provinces and Oudh Government Gazette, the Central Provinces Gazette and the Assam Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

ASSAM EMIGRANTS' HEALTH BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to make better provision for the health, supervision and control of Emigrants proceeding to or from the labour-districts of Assam. He said:—"This Bill is a corollary to the amendments which we propose to make in the recruitment provisions of the Assam Labour and Emigration Act, and, in introducing the Bill for this latter object, I have explained that we propose to supplement the revised provisions by enacting as a general Act the Bengal Inland Emigrants' Health Act. The Local Governments of the several provinces in which recruiting for Assam is

carried on will thus have the same means of guarding the health of recruits in transit to Assam as the Bengal Government at present have. It is proved by experience that such powers are required."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 20th October, 1899.

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 13th October, 1899.

G. C. [illegible]s, Simla.—No. 492 L. D.—20-10-99.—320.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 20th October, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Excellency General Sir W. S. A. Lockhart, G.C B., K.C.S.I , Commander-in-Chief in India.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

INDIAN TOLLS (ARMY) BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army. He said :—" The object of this Bill is to combine in a single Act, of general application, the provisions relating to the exemption from tolls of persons and property belonging to the Army, which are at present scattered over a large number of local enactments in force in different parts of India, and to bring these provisions into harmony with those of the English Army Act. The details of the Bill are fully explained in the Statement of Objects and Reasons, and the only point which I need notice is that the list of proposed exemptions in clause 3 of the Bill is quite provisional and will receive further careful consideration."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

AGRICULTURAL PROSPECTS.

The Hon'ble MR. RIVAZ said:—"Before the Government of India leave Simla and re-assemble in Calcutta, the Governor General in Council considers it desirable to place before the public such information as to the probable character and extent of the approaching distress, and as to the measures taken to meet it, as is at present available. A similar forecast was made in October, 1896, when the failure of the South-West Monsoon made scarcity or famine over the greater part of India inevitable. Early in August last the weakness and fitfulness of the monsoon current led the Government of India to request Local Governments to place before them by the end of September full reports on the agricultural situation, and to include in these reports an estimate of the amount of relief which might be required in the event of unfavourable conditions continuing. Similar information was at the same time called for from Political Officers in respect of Native States. These reports have been received and examined in the light of the latest further intelligence as to rainfall, harvest prospects and prices. The reports are exceptionally full and clear, and the Governor General in Council is under obligation to the Local Governments and Political Officers for the care with which they have placed before him the chief features of a serious and critical situation.

"It is difficult at this early stage to institute a close comparison between the circumstances created in 1896 by the failure of the rains and the circumstances now existing. The present situation has this important point in its favour that the great and populous province of Bengal, and fully half, if not three-fourths, of the great and populous province of the North-Western Provinces and Oudh, have good or fair rain crops, and fairly good prospects for the ensuing cold weather, and, save for the pressure of high prices on the labouring and urban classes, are practically outside the region of anxiety. This tract is the most densely inhabited and the most highly cultivated in India, and contains a population, roughly speaking, of 100 million souls. It is a matter of profound satisfaction that in this vast area the present outlook is immeasurably better than was the outlook in October, 1896, and that here at all events the food production of the year will be in excess of the requirements of the population. With Bengal and the Eastern Section of the North-Western Provinces may be ranked Burma, where a bumper rice crop is on the ground; Madras, where rain has fallen widely and most opportunely; and the Native State of Mysore. In all these the outlook at present is much more favourable than in 1896. To the absolutely secure area may be added, as in 1896, Sindh and the South-West Punjab which rely wholly on canal irrigation from the perennial snow-fed rivers of the Himalayas.

1899.] [*Mr. Rivaz.*]

"The second group comprises those Provinces, Districts, or States where prospects are mediocre, though marked failure of crops or general distress is not anticipated. In this group may be placed the South Mahratta and South Deccan districts of the Bombay Presidency, a large part of the Nizam's Dominions, the greater portion of the Central India Agency, the western half of the North-Western Provinces and the northern and submontane districts of the Punjab. In the three tracts last enumerated much will depend on the extent to which sowings for the winter crop may be found practicable. At present sowings on unirrigated lands are in these tracts impeded by the exceptional dryness of the soil. But the area commanded by wells and canals is very large, and if an inch of rain should fortunately fall between now and the 15th November in Central India and the western districts of the North-Western Provinces, and up to a much later date in the Northern Punjab, sowings outside the irrigated area would be undertaken. On the whole, a comparison of the existing situation in the tracts forming the second group with the situation there in 1896 is favourable to the present year.

"The last group comprises the seriously affected area in which scarcity or famine conditions either already exist or must be expected. This area is unhappily large. It comprises about 100,000 square miles in British territory, with a population of 15 millions, and about 250,000 square miles in Native territory, with a population also of about 15 millions. In 1896 the seriously affected area comprised about 200,000 square miles in British India, with a population of 45 millions, and 80,000 square miles in Native States, with a population of 7 millions. It includes about $\frac{5}{6}$ths of the Central Provinces, nearly the whole of the Berars, the North Deccan and Guzerat in the Bombay Presidency, and the South-East and Central Punjab. It further includes the territories of large and important Native States in Central and Western India. The large group of Native States in North Bombay, the Baroda State, the greater part of the Indore State, and virtually the whole of Rajputana, and some minor States in Central India, are very seriously affected. In this great expanse of Native territory between the Sutlej and the Nerbudda, pasturage has failed for the herds which largely represent the wealth of these States, and great losses of agricultural stock are inevitable. Fortunately, the population is comparatively sparse. In extent and intensity the present drought in Rajputana and North Bombay equals, if indeed it does not exceed, the memorable drought of 1868, the year which affords the nearest parallel to the present year within this century. In the British Districts of Guzerat scarcity of water and fodder is also great, and though great exertions to

import fodder and to provide central relief camps for cattle on the banks of rivers are being made by the Bombay Government, much loss, it is feared, will befall the agriculturists. Otherwise, the districts of Guzerat are better fitted by their wealth and prosperity than almost any other part of India to tide successfully over the difficulties caused by a loss of the year's harvests. The failure of the rain crops in the Central Provinces is probably not as great as in 1896, but it is feared that unless rain speedily comes, the prospects of a cold weather crop will be poor. The gravity of the situation here is much increased by the depressed condition of the population, which has not recovered from the disasters of the great famine of 1896-98. The South-East Punjab, especially the districts of Hissar, Gurgaon and Rohtak, which were affected by the drought of 1896-97, are again affected, and in a worse degree. Conditions here are similar to those existing in Rajputana, and great loss of cattle is anticipated.

"The net result of these comparisons is that a much smaller area and population in British India are this year seriously affected, and a much larger area and population in Native States, as compared with the affected area and population in 1896-97. The total population of the area in which the harvests are seriously deficient in British and Native territory may be put at 30 millions against 52 millions in 1896-97. There is no reasonable doubt as to the sufficiency of the food stocks of India as a whole for the requirements of the country up to July next, when the rains of 1900 will, it is hoped, be established. How far the existing stocks will be replenished by the outturn of the cold weather crops is a matter of uncertainty, as the outturn will depend on the presence or absence of rain during the next three months. But in the North-Western Provinces and the Punjab the perennial canals may be relied on to irrigate 4½ million acres, and the area protected by wells in both provinces is also very large. Even assuming that no rain falls in these provinces in time to aid the cold weather sowings, the crops raised with the help of irrigation in the dryest districts will be very considerable, and there is besides a great and fertile area especially adapted for cold weather crops between the eastern borders of Bihar and the western confines of Oudh, where the soil has retained sufficient moisture to admit of sowings generally. The stimulus which the high prices of a year of scarcity give to cultivation in India, wherever cultivation is possible, was strikingly illustrated in 1896-97, and it is quite certain that, however adverse the coming season as regards rain may be, the same influence will operate to bring every possible acre of land under a winter crop of some kind.

"Prices of grain in the famine affected tracts, and indeed throughout India, have risen very much, and are now as high as they were in October, 1896.

"It is probable that, as in 1896, the extreme limit has already in most places been reached, and that as panic and speculation abate, and the possibilities of importing wheat and maize from America and other countries (to say nothing of rice from Burma and Bengal) are more fully recognized by the trade, a decline will set in. It is a significant fact that a considerable quantity of foreign wheat has already been sold to up-country buyers in the Calcutta market at a rate which would enable it to be laid down at Ajmer, in the very heart of Rajputana, at the price of 16 lbs., or 8 seers, the rupee. At the close of the famine of 1896-97 the American maize received by the Indian Charitable Relief Fund Committee from the United States was very highly thought of and eagerly accepted by the people in the Central Provinces and the Punjab. There would seem to be a good opening for the importation this year of maize in large quantities on remunerative terms, and there is a large market for it in many parts of the country.

"It is scarcely necessary to say that the Government of India will adhere to their policy of absolute abstention from any interference with private trade in the matter of grain imports from abroad. The wisdom of this policy was thoroughly established in the famine of 1896-97. It is also anticipated that, as in 1896-97, the internal trade of the country will be fully equal to supplying local requirements throughout British India. The extreme activity of the grain traffic on every railway at the present moment is the best evidence of this. In the Rajputana famine of 1868 the cost of carrying grain from Agra to Ajmer was Rs. 2-4-0 the maund. The sole means of conveyance was by camels, and even camels failed. The cost of railway carriage between these places is now only two or three annas the maund. In 1868 the Rajputana-Malwa Railway was not built, and in Jodhpur and Meywar there was absolute dearth of food. The South-East Punjab was similarly unprotected. The railway map of India for the present year will show how totally conditions in these regions have changed. So far as the Government of India are aware, no Native State has expressed apprehension that food will not be obtainable in its territories, or that private trade will be unequal to the task of importing whatever quantity is needed.

"The estimates of expenditure on direct relief returned by the Local Governments point to a probable outlay of 1 crore or 1½ crores of rupees up to the 31st March, 1900. These estimates have to be received with all caution, as it is too early to foresee how events will run. There will be further outlay on account of loans and advances to agriculturists. On the receipt side of the account the

land-revenue collections will necessarily show some falling off. On the other hand, there will be increased railway earnings and increased irrigation receipts.

"The principles and practice of famine relief are now so generally known that it is unnecessary to explain them in detail. The Famine Commission which sat last year, while making a number of useful suggestions on minor points, had to admit that the general method of relief procedure had stood the test of practice. The Famine Commission's recommendations have not yet been formally embodied in the local Famine Codes, but they have been for some time under the consideration of Local Governments, and in many respects they are being acted on. In all the Provinces relief organization is complete and ready to cope with distress, as distress becomes apparent. According to the latest reports 63,000 persons are on relief in Bombay, 71,000 in the Punjab, 121,000 in the Central Provinces, 28,000 in Berar, and 70,000 in Ajmer-Merwara. In all, 250,000 in British India. In October, 1896, the number of persons on relief was only 50,000. The difference in numbers is due partly to the earlier date at which distress has unmistakeably declared itself, but in a large measure also to the greater vigilance and promptitude engendered by the experiences of 1896-97.

"With regard to Native States, the primary responsibility for affording relief to their subjects rests with the Rulers. They have to assist them in the discharge of this responsibility, a simplified edition of the Famine Codes of British India, and the friendly help and advice of the Residents and Political Officers. The larger Native States have competent engineers in their employ, who can undertake the supervision of any important public works undertaken for relief purposes. The Government of India have volunteered the loan of any other officers who may be needed to supervise relief measures, and have offered to assist with loans of money any State in Rajputana whose resources are unequal to the strain of famine relief. From the reports which have reached him the Governor General in Council feels assured that in Rajputana and elsewhere the ruling Chiefs of Native States fully recognize the exceptional responsibilities devolving on them, and are animated with an earnest wish to succour their people."

His Excellency THE PRESIDENT said:—"I should like to supplement the detailed statement to which we have just listened from the Hon'ble Member in charge of the Revenue and Agricultural Department by a few observations of a more general character upon the attitude and policy of Government. It has been a source of great distress to me—and my feelings in this respect are those of all my Colleagues—that in my first year of office, while plague, the first great

Indian scourge, has remained a persistent visitor, the second, which is famine, should once again be threatening this sorely tried country and its patient and unmurmuring population. For months past it is no exaggeration to say that the daily meteorological report has been to everyone of us, who are in our different spheres responsible for Indian government, the document to which we have turned with the most anxious interest each morning; and day by day as we have contemplated a sky of brass and an unclouded sun, we have longed bitterly, and would have sacrificed much, for the sight that met the watcher upon Carmel, of the little cloud no bigger than a man's hand.

"If, in our regrets at the ill fortune that has attended us, we may nevertheless recognize some grounds of legitimate alleviation, they will consist in the facts that we had upon the present occasion long warning of the coming scarcity, and have, in consequence, been able to formulate our plans of campaign in advance; and, secondly, that while the area of certain distress is unfortunately large—much too large— it is yet considerably smaller than the corresponding area in the famine of 1896-97, and, if Providence should favour us with late autumnal rains, is still capable of contraction. In Rajputana it is to be feared that the suffering will be in excess of any since the sad year of 1868-69; and in the Central Provinces, I regret to think that a portion of the ordeal of three years ago may again have to be endured by the same poor people who have barely had time to recover from the last shock. But elsewhere, as Mr. Rivaz has shown, the situation, though grave, affords less ground for acute apprehension; while in many parts of India the sufferings of the unfortunates elsewhere will, to some extent, be balanced by exceptionally favourable conditions.

"The narrowness and the comparatively precise definition of the areas affected should enable us to devote our energies to their relief with all the greater concentration. I do not pretend that, in so doing, we have any novel or startling methods of procedure to announce. Perhaps the worst and least re-assuring declaration that a Viceroy could make upon an occasion like this would be that the Government of India proposed to experiment in respect of scarcity and famine. Our proceedings must be, and will be, founded upon the very opposite extreme of principle. All that we have acquired from the recorded observations of a century; all that we have learned from the experience of the past 25 years, during which India has three times been visited by serious famines; all that we have been advised or warned by the recent Famine Commission. these must be the bases of our action. They will furnish the pocket-book for field service, with which our soldiers of peace will enter upon, their humane and bloodless campaign.

"If I be asked to summarize the action which it is in the power of the Government of India to take against famine, in respect either of executive intervention, of sympathetic assistance, or of local control, I would make the following reply. In our own territories we have a fourfold scheme of operation: in the larger villages and towns, we open poor-houses for the reception and sustenance of the famishing waifs and strays; in the country hamlets, we distribute gratuitous relief, weekly or fortnightly, to the sick and aged, the widow and the orphan; we employ tens of thousands of impoverished but willing hands upon relief works, the making of roads, the digging of tanks, the construction of embankments for future lines of railway. The Hon'ble Member has in his speech given you some idea of the numbers who are already thus engaged; and they represent but a small fraction of the total for whom our existing organization would enable us, with scarcely a hitch, to provide paid employment of this character, should the emergency arise. Finally, by the appointment of special officers, selected for their training or experience, we supplement the existing staff, and endeavour both to supply a stimulus and to strengthen local supervision.

"These are our more immediate measures. Prospectively, we always have in contemplation *Taccavi* advances, to enable the peasant to sow his seed before the next rains, and—that ultimate stand-by of the distressed agriculturist in all lands—remission of rent, or as we call it in India, land revenue. I do not think that in any period of scarcity or famine, the Government of India has shown an inclination to be ungenerous in these particulars.

"If we turn to the situation as it affects Native States, we are necessarily upon somewhat different ground. Here we must be careful to do nothing that would diminish the responsibility or slacken the energies of the Native Chiefs and Durbars. The Government of India should not step in either to usurp their proper functions, or to relieve them of an obligatory duty. On the other hand, we may do much, and in the case of Rajputana we are endeavouring to do much, by the loan of officers, and by the offer of expert advice, to systematize and to co-ordinate local action. We can further help Native States with loans from the Imperial Exchequer; and I believe that my Hon'ble Colleague, the Finance Member, is prepared to show a far from obdurate disposition in this respect; and we may, by individual acts of assistance or relief, contribute to lessen the strain. For instance, I may mention that a little while ago I offered to remove and to maintain at the expense of the Government of India one of the two Imperial Service Cavalry Regiments of Jodhpur during the present and forthcoming distress; and that this offer was gladly accepted by the State.

1899.] [*The President.*]

"May I venture to add that there must be many localities—populous districts or large cities in which men of substance reside—where some local effort for the assistance of their suffering countrymen would be most acceptable. I have already heard of such private charity having been started in some cases—of a local Famine Relief Fund, of a subscription list, and of a Committee of Distribution. There are large classes of the native population who are not touched either by relief works or by gratuitous relief; but who may be saved from perishing by the timely exercise of such philanthropy. In detailing the liberal and sustained plan of action with which the Government of India is prepared to meet the emergency, I feel that I have a peculiar right to call also upon India's own sons to come to her rescue in the hour of her trial.

"My own knowledge of Famine Work and Famine Relief is necessarily at present, owing to the short time which I have spent in the country, only in an incipient stage. May I add that I propose to invest it, in so far as I can, with a more practical and beneficial complexion, by visiting in the course of my forthcoming tour a large number of the principal areas of distress in Northern and Central India. The experience which I shall thereby gain may, I hope, enable me both to render useful help on a future occasion, should such arise, and to enter more closely into the sorrows, as well as the joys, of the Indian people."

The Council adjourned *sine die.*

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.

SIMLA;
The 20th October, 1899.

G. C. Press, Simla.—No. 506 L. D.—26-10-99.—320.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 22nd December, 1899.

PRESENT:

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.
His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.
The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.
The Hon'ble Sir A. C. Trevor, K.C.S.I.
The Hon'ble Mr. C. E. Dawkins.
The Hon'ble Mr. T. Raleigh.
The Hon'ble Mr. Denzil Ibbetson, C.S.I.
The Hon'ble Mr. Allan Arthur.
The Hon'ble Mr. P. M. Mehta, C.I.E.
The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.
The Hon'ble Mr. J. K. Spence, C.S.I.
The Hon'ble Mr. G. Toynbee.
The Hon'ble Mr. D. M. Smeaton, C.S.I.
The Hon'ble Nawab Bahadur Sir Khwaja Ahsanullah, K.C.I.E.
The Hon'ble Kunwar Sir Harnam Singh Ahluwalia, K.C.I.E., of Kapurthala.
The Hon'ble Mr. J. T. Woodroffe.
The Hon'ble Mr. J. Buckingham, C.I.E.
The Hon'ble Mr. H. F. Evans, C.S.I.
The Hon'ble Rai Bahadur B. K. Bose, C.I.E.

NEW MEMBERS.

THE Hon'ble KUNWAR SIR HARNAM SINGH, the Hon'ble MR. J. T. WOODROFFE, the Hon'ble MR. J. BUCKINGHAM, the Hon'ble MR. H. F. EVANS and the Hon'ble RAI BAHADUR B. K. BOSE took their seats as Additional Members of Council.

WHIPPING BILL.

The Hon'ble MR. IBBETSON moved that the Bill further to amend the Whipping Act, 1864, be referred to a Select Committee consisting of the Hon'ble Mr. Raleigh, the Hon'ble Mr. Mehta, the Hon'ble Mr. Spence, the Hon'ble Sir Khwaja Ahsanullah and the mover.

The motion was put and agreed to.

TRANSFER OF PROPERTY BILL.

The Hon'ble MR. RALEIGH moved that the Bill to amend the Transfer of Property Act, 1882, be referred to a Select Committee consisting of the Hon'ble Mr. Mehta, the Hon'ble Mr. Spence, the Hon'ble Rai Bahadur P. Ananda Charlu, the Hon'ble Mr. Woodroffe and the mover.

The motion was put and agreed to.

PRISONERS BILL.

The Hon'ble MR. RALEIGH moved that the Bill to consolidate the law relating to prisoners confined by order of a Court be referred to a Select Committee consisting of the Hon'ble Mr. Ibbetson, the Hon'ble Nawab Muhammad Faiyaz Ali Khan, the Hon'ble Sir Harnam Singh, the Hon'ble Mr. Evans and the mover.

The motion was put and agreed to.

INDIAN ARTICLES OF WAR AMENDMENT BILL.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved for leave to introduce a Bill to amend the Indian Articles of War. He said:—"The Bill which I am about to ask leave to introduce deals with a matter of some importance to the Native Army. In very early days, Commanding Officers of Native Infantry Regiments were empowered by Regulation to discharge unattested recruits who did not give promise of turning out good soldiers, and, similarly, Commanding Officers of Native Cavalry Regiments had the power of discharging men under three years' service who failed to become good riders and good cavalry soldiers. There was some doubt as to the legality of the practice as tested by the provisions of the Indian Articles of War, and the practice was discontinued; but experience has proved that these powers are

necessary, and that their exercise conduces to the efficiency of the Native Army; and we propose to place beyond doubt the legality of the Regulations."

The motion was put and agreed to.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN introduced the Bill.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 5th January, 1900.

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.

CALCUTTA;
The 22nd December, 1899.

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